



Joint Communication to the Office of the Prosecutor of the International Criminal Court Regarding the Perpetration of the Crime of Genocide by Members of the Israeli War Cabinet

Submitted by Law for Palestine

Supported by the Independent Commission for Human Rights (Palestine) and The Arab Network for National Human Rights Institutions

Endorsed by a Broad International Coalition

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National Human Rights Commissions and Institutions:

1. Iraq's High Commission of Human Rights, Iraq
2. National Committee for Human Rights, The United Republic of Comoros
3. National Council for General Liberties and Human Rights, Libya
4. National Council for Human Rights, Algeria
5. National Human Rights Commission, Mauritania
6. Oman Human Rights Commission, Oman
7. The High Commission for Human Rights and Fundamental Freedoms, Tunisia
8. The National Center for Human Rights, Jordan
9. The National Commission for Human Rights including the Committee for the Prevention of Torture, Lebanon
10. The National Council for Human Rights, Egypt
11. The National Human Rights Committee, Qatar
12. The National Human Rights Council, Morocco
13. The National Institution for Human Rights, Bahrain
14. The National Diwan for human rights, Kuwait
15. The National Commission on Human Rights, Djibouti

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1. Arab Lawyers Union
2. Algerian Bar Council
3. Jordanian Bar Council
4. Palestinian Bar Council
5. Tunisian Bar Council

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Table of Contents

1. INTRODUCTION.....	7
1.1 The Purpose of this Submission.....	9
1.2. About Law for Palestine – L4P.....	11
1.3. About The Independent Commission for Human Rights - ICHR.....	11
1.4. About The Arab Network for National Human Rights Institutions - ANNHRI.....	12
2. HISTORICAL BACKGROUND: CONTEXT FOR THE GENOCIDAL BUILD-UP	13
2.1. Zionism as an eliminationist ideology.....	13
2.2 Denial of Right to Return	23
2.3 A Brief Historical Contextualisation of Gaza	26
2.4 Israeli Offensives Against Gaza	36
3. THE SITUATION IN GAZA SINCE OCTOBER 7, 2023	41
4. THE PALESTINIAN PEOPLE OF GAZA AS A PROTECTED GROUP	46
4.1. Palestinians as a Whole as a Protected Group for the Purpose of the Rome Statute.....	46
4.2 Palestinians in Gaza as a Substantial Part of the Protected Group for the Purposes of the Rome Statute	49
5. MENS REA.....	56
5.1 Statements Expressing Clear Genocidal Intent.....	58
5.2 Intent for Ethnic Cleansing as a tool of Genocide.....	77
5.3 Employment of the 'Human Shields' argument as tool for justifying genocide.....	92
5.4 Destruction of Culture as an indication of Genocidal Intent	148
5.5 Environmental Destruction (Ecocide) as Genocidal Intent	155
5.6 Domicide as Genocidal Intent	163
5.7 Israeli Laws aimed at Protecting its Leaders and Soldiers from Prosecution.....	167
5.8 Apartheid as evidence on Genocidal Intent.....	178

6. LIABILITY AND CLAIMS 188

6.1 Theory of Liability: The Modes of Liability for Genocide relied upon by the ICC 188

6.2 The crimes perpetrated and their perpetrators: 191

7. ICC AND GENERAL OFFICIAL RECOGNITION OF OTHER CASES OF PLAUSIBLE GENOCIDE..... 193

7.1 ICC recognition of other similar cases of plausible genocide 193

7.2 Recognition of the Gaza genocide 196

7.3. Conclusion..... 204

8. PROSECUTORIAL DISCRETION..... 206

8.1 Case Prioritization within a Situation by the Prosecutor 206

8.2 Comparative Case Prioritization by the Prosecutor..... 213

9. CONCLUSION..... 217

Annex 1220

Law for Palestine’s Database of Israeli Incitement to Genocide 220

1. INTRODUCTION

1. Since October 7, 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, which has seen Israel deploy approximately 30,000 members of the Israeli military into the occupied territory, Israel has launched one of the most intense and destructive bombing campaigns in modern history.¹ It is believed that by mid-December 2023, Israel had dropped over 29,000 bombs, with munitions used by Israel including 2000 lb “bunker buster” bombs, which were used in densely populated urban areas.² Israel has continued bombings and ground attacks across Gaza, killing thousands, including children, leaving those who survived lethal force with life-changing injuries or irreparable trauma, destroying homes and protected objects, including schools, hospitals, agricultural land, and cultural sites. With Gaza’s territory rendered uninhabitable, the majority of the Palestinian people live in coerced homelessness, and 2.3 million people have been forced into starvation.³

¹ 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

² Jared Malsin and Saeed Shah, ‘The Ruined Landscape of Gaza After Nearly Three Months of Bombing’ (*The Wall Street Journal*, 30 December 2023) <<https://www.wsj.com/world/middle-east/gaza-destruction-bombing-israel-aa528542>> accessed 3 February 2024; Julia Frankel, ‘Israel’s military campaign in Gaza seen as among the most destructive in recent history, experts say’ (*The Associated Press*, 11 January 2024) <<https://apnews.com/article/israel-gaza-bombs-destruction-death-toll-scope-419488c511f83c85baea22458472a796>> accessed 3 February 2024

³ Indlieb Farazi Saber, A ‘cultural genocide’: which of Gaza’s Heritage sites have been destroyed?’ (*Al-Jazeera*, 14 January 2024) <<https://www.aljazeera.com/news/2024/1/14/a-cultural-genocide-which-of-gazas-heritage-sites-have-been-destroyed#:~:text=An%20ancient%20harbour%20dating%20back,documenting%20war%20damage%20on%20cultural>> accessed 15 February 2024; Lucy Williamson, ‘Gaza residents surviving off animal feed and rice

2. At the time of writing (as of 19 March 2024), the Ministry of Health in Gaza has reported at least 31,490 Palestinians have been killed, with as many as 70 percent being women and children, and another 73,439 Palestinians injured, between October 7, 2023, and March 14, 2024.⁴ At the same time, at least 1.7 million Palestinians have been displaced from their homes, representing more than 75 percent of the population.⁵ The humanitarian disaster has been exacerbated by Israel cutting off electricity, water, phone, and internet reception within Gaza and blocking international humanitarian aid, deliberately inflicting conditions designed to destroy the Palestinian people in Gaza.⁶

3. This military campaign and actions of collective punishment, which has already been recognized as potentially amounting to genocide by the International Court of Justice (hereinafter “ICJ”),⁷ coincides with record levels of settler and state violence against Palestinians within the occupied West Bank, illegally annexed east Jerusalem and against

as food dwindles’ (*BBC*, 11 February 2024) <<https://www.bbc.com/news/world-middle-east-68239320>> accessed 15 February 2024; OCHA OPT, Hostilities in Gaza and Israel - reported impact, Day 130 <<https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-reported-impact-day-130>> accessed 15 February 2024

⁴ UNRWA ‘UNRWA Situation Report #91 on the Situation in Gaza and the West Bank, Including east Jerusalem’ (15 March 2024) <<https://www.unrwa.org/resources/reports/unrwa-situation-report-91-situation-gaza-strip-and-west-bank-including-east-Jerusalem>> accessed 19 March 2024

⁵ UNRWA ‘UNRWA Situation Report #91 on the Situation in Gaza and the West Bank, Including east Jerusalem’ (15 March 2024) <<https://www.unrwa.org/resources/reports/unrwa-situation-report-91-situation-gaza-strip-and-west-bank-including-east-Jerusalem>> accessed 19 March 2024

⁶ Al-Jazeera, ‘Israel Intensifies Gaza bombardment as internet and phone services go down’ (*Al Jazeera*, 27 October 2023) <<https://www.aljazeera.com/news/2023/10/27/israel-intensifies-gaza-bombardment-as-internet-and-phone-services-go-down>> accessed 3 February 2024; A. Kayum Ahmed, ‘Israeli Authorities’ Cutting of Water Leading to Public Health Crisis in Gaza’ (*Human Rights Watch*, 16 November 2023) <<https://www.hrw.org/news/2023/11/16/israeli-authorities-cutting-water-leading-public-health-crisis-gaza#:~:text=Since%20the%20start%20of%20the,cannot%20operate%20without%20clean%20water>> accessed 3 February 2024; Sari Bashi, ‘Israel Still Blocking Aid to Civilians in Gaza’ (*Human Rights Watch*, 23 October 2023) <<https://www.hrw.org/news/2023/10/23/israel-still-blocking-aid-civilians-gaza#:~:text=The%20Israeli%20government%20is%20deliberately,the%20actions%20of%20armed%20groups>> accessed 3 February 2024

⁷ *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

Palestinians within Israel's internationally recognized borders.⁸ The violence, rather than being de-escalated by Israeli politicians, has been inflamed with racist and dehumanizing rhetoric, inciting violence against Palestinians across Israel's recognized borders and within the territory it continues to illegally occupy, including by calling for the reinstatement of illegal Israeli settlements in Gaza.⁹

1.1 The Purpose of this Submission

4. This communication, the first part of a two-part submission by Law for Palestine, has been produced by a team of experts and researchers in accordance with Article 15 of the Rome Statute, and in response to the Prosecutor's call on November 17, 2023, urging parties, stakeholders, and all those with relevant information to provide relevant data to assist the investigation team's ongoing probe into violations of the Rome Statute in Palestine, including the ongoing war in Gaza.¹⁰ The purpose of this communication is to provide a thorough and independent legal analysis of how the actions and conduct of the Israeli politicians and members of the Israeli Forces¹¹ amounts to the crime of genocide against the Palestinian people in Gaza. This campaign has been orchestrated by, but is not limited to, Prime Minister Benjamin Netanyahu, President Isaac Herzog, and members of the so-called Israeli 'war cabinet'.

⁸ UNRWA 'UNRWA Situation Report #70 on the Situation in Gaza and the West Bank, Including east Jerusalem' (29 January 2024) <<https://www.unrwa.org/resources/reports/unrwa-situation-report-70-situation-gaza-strip-and-west-bank-including-east-Jerusalem>>

⁹ 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

¹⁰ International Criminal Court, 'Statement of the Prosecutor of the International Criminal Court, Karim A.A. Khan KC, on the Situation in the State of Palestine: receipt of a referral from five States Parties'. (17 November 2023) <<https://www.icc-cpi.int/news/statement-prosecutor-international-criminal-court-karim-aa-khan-kc-situation-state-palestine>> accessed 19 March 2024

¹¹ This document refers to all official members of the Israeli military branch, titled the 'Israeli Defence Force', as the Israeli Occupation Forces. We believe referring to the Israeli Military as a 'defence force' is inappropriate given its consistent aggression towards the Palestinian People in its occupation since 1967.

5. This communication exclusively addresses the crime of genocide as stipulated in Article 6 of the Rome Statute. It is prompted by the evident intent of the potential perpetrators to destroy the Palestinian people in Gaza and the current lack of actions by the International Criminal Court (hereinafter “ICC”) against potential perpetrators, 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, 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.
6. This submission, the first of the two-part legal analysis, will begin by examining the contextual background of the situation in Gaza, providing an overview of Israel’s settler-colonialism in Palestine, including, *inter alia*, the apartheid regime it has imposed on Palestinians in Gaza and across the Palestinian territory under its control. The submission will then examine the criteria for genocide under international law, considering the jurisprudence of various tribunals and the ICC, providing a clear analysis of the elements of genocide and their application to the ongoing crisis within Gaza. The submission will also scrutinize the Prosecutorial discretion exercised by the ICC Office of the Prosecutor (ICC OTP) concerning the Court’s approach to case selection. It will elucidate how the criteria guiding this discretion necessitate prioritizing investigations into the crimes committed in Gaza since October 2023, and the prosecution of prominent Israeli perpetrators. However, this prioritization will not overlook the significance of investigating other crimes falling within the purview of the Rome Statute. The submission will conclude with recommendations to the court on actions that need to be taken immediately to address the situation, under the Rome Statute.
7. The second part of the submission, which is forthcoming, will build on the background established by the current report and focus on the Actus Reus of the crime of genocide. It will include the legal characterization of the crimes outlined in Article 6 of the Rome Statute along with witness testimonies and affidavits from Gaza.

1.2. About Law for Palestine – L4P

8. Law for Palestine (<https://law4palestine.org/>) is a non-profit organization led by youth, registered in the UK and Sweden. Its mandate is to ensure accountability under international law, particularly concerning the ongoing illegal occupation of the occupied Palestinian territory (consisting of the West Bank, Gaza and illegally annexed east Jerusalem hereinafter “oPt”), as well as to uphold and safeguard the fundamental rights of Palestinian individuals and groups both within the region and globally. 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.
9. At its core, Law for Palestine actively engages in a multifaceted approach to address legal issues, employing a strategic blend of research, legal analysis, and advocacy initiatives. Through various programs and projects, the organization strives to create awareness, educate, and advocate for the protection of human rights in Palestine/Israel. Through its comprehensive and targeted efforts, Law for Palestine aims to make a meaningful impact on the legal landscape, contributing to the broader goals of justice, human rights, and a just resolution to the challenges faced by the Palestinian people.

1.3. About The Independent Commission for Human Rights - ICHR

10. ICHR is the national human rights institution in Palestine, also functioning as an Ombudsman. Established in 1993 by Presidential Decree, ICHR's mandate is to safeguard fundamental liberties and freedoms within Palestine. This includes addressing cases of human rights violations, handling complaints regarding abuse of power submitted by citizens, promoting human rights through education, monitoring, and integrating human rights principles into Palestinian legislation and policies. ICHR holds an A accreditation within the Global Alliance for National Human Rights Institutions (GANHRI), highlighting its complete independence. Additionally, it is an active member of the Arab Network for Arab National Human Rights Institutions (ANNHRIs), the Asia Pacific

Forum for NHRIs (APF), and the Mediterranean Ombudsmen Association. To ensure accessibility for all Palestinian citizens, ICHR maintains local offices in key regions across the country.

1.4. About The Arab Network for National Human Rights Institutions - ANNHRIs

11. ANNHRIs is a regional network of Arab national institutions dedicated to the protection and promotion of human rights across the Arab world. It was established in line with the agreements reached during the 7th Annual Meeting of Arab National Human Rights Institutions held in April 2011 in Nouakchott, known as the Nouakchott Declaration. The objectives of ANNHRIs include strengthening and promoting human rights by empowering Arab NHRIs to effectively fulfill their roles in upholding and respecting human rights within their respective countries. This also involves promoting a culture of human rights among citizens, stakeholders, and both public and private sectors. ANNHRIs also advises on aligning national legislation with the provisions of international human rights conventions, encourages the establishment of national human rights institutions in accordance with the Paris Principles, and fosters cooperative relationships among national institutions themselves, as well as with the International Coordinating Committee of National Human Rights Institutions and relevant regional and international organizations.

2. HISTORICAL BACKGROUND: CONTEXT FOR THE GENOCIDAL BUILD-UP

2.1. Zionism as an eliminationist ideology

2.1.1 Introduction

12. The Zionist ideology, in all its iterations, is predicated on the elimination of the indigenous population of Palestine. This is a result of the fundamental tension between Zionism as a movement for a religiously and ethnically exclusive state¹², and the reality that an indigenous Palestinian population existed and continues to exist in Palestine.
13. Zionist ideology became increasingly violent and extreme in its stance towards the indigenous Palestinian population in the early twentieth century¹³, directly leading to specific plans, such as Plan Dalet, to ethnically cleanse Palestine and eventually leading to the Nakba¹⁴. Later massacres at Sabra and Shatila further illustrate the violence of Zionist ideology¹⁵. Modern Israeli leaders have been inspired by foundational Zionist ideology and more extreme versions have developed, represented by politicians like Avigdor Liberman and current ministers like Finance Minister Bezalel Smotrich and Minister of National Security Itamar Ben-Gvir.
14. This section goes on to link Zionist ideology to the actions of Israeli leaders, including those within the current government, before concluding by outlining the jurisprudence of the International Criminal Tribunal for the Former Yugoslavia (ICTY), the International

¹² MACHOVER, MOSHÉ. “An Immoral Dilemma: The Trap of Zionist Propaganda.” *Journal of Palestine Studies*, vol. 47, no. 4 (188), 2018, pp. 69–78. JSTOR, <https://www.jstor.org/stable/26508574>. Accessed 18 March 2024.

¹³ Eisen R, ‘Modern Zionism’ [2011] *The Peace and Violence of Judaism* 141

¹⁴ Plan Dalet or ‘Plan D’ was a military strategy designed by the Haganah which was adopted on 10 March 1948. The Plan was distributed amongst commanders of the Haganah. See Ilan Pappé, ‘The 1948 Ethnic Cleansing of Palestine’ *Journal of Palestinian Studies* 141, 2006

¹⁵ United Nations Security Council resolution 19/9/1982; resolution ES-7/9 24/9/1982

Criminal Tribunal for Rwanda (ICTR) and the ICC, in which judgments underscored the role of extremist and nationalist ideologies in establishing genocidal intent.

2.1.2 Foundational Zionist ideology

15. The Zionist movement, which was focused from the late 19th Century on the settlement and construction of a Jewish homeland in Palestine, had two key strands from 1929. Those were Revisionist Zionism and Labour Zionism, whose main thinkers or leaders respectively were Vladimir Jabotinsky (later called Ze'ev Jabotinsky) and David Ben-Gurion.¹⁶
16. The foundational thinkers of Zionist ideology were aware of the existence of an indigenous population in the land of Palestine or 'the Holy Land' and the fact that it may represent a key obstacle to the success of a Jewish-majority state. The Zionist thinker Vladimir Jabotinsky noted, for example, that 'Zionist colonization must either stop or else proceed regardless of the native population'.¹⁷ In response to this obstacle, Zionism was clearly expressed as a settler colonial ideology from the outset,¹⁸ and Zionist thinkers employed a range of arguments, all of which sought to eliminate the native Palestinian population, both physically and through their rhetorical erasure. It is important to note here the inherently eliminatory objective of settler colonialism.
17. It is important to briefly note that as this section demonstrates, despite some differences in ideology, both strands viewed policies of elimination towards the indigenous population as necessary and both came to advocate for ethnic cleansing by the 1930s.

¹⁶ Zeev Tzahor, 'The struggle between the Revisionist Party and the Labour Movement: 1929-33. (1988) 8 *Modern Judaism* 15.

¹⁷ Ze'ev Jabotinsky, 'The Iron Wall' (4 November 1923) <<https://en.jabotinsky.org/media/9747/the-iron-wall.pdf>> accessed 16 February 2024.

¹⁸ David Lloyd 'Settler Colonialism and the State of Exception: The Example of Palestine/ Israel' (2012) 2 *Settler Colonial Studies* 59; Edward Said, 'Zionism from the standpoint of its victims' (1979) 1 *Social Text* 7.

Erasing the idea of the indigenous population

18. Early Zionist proponents attempted to gain support for their movement by arguing that there was little to no indigenous population in Palestine. Most famously, the refrain that Palestine was “a land without a people for a people without a land”, and similar phrases to that effect, depicted Palestine as a land devoid of an indigenous people.¹⁹ This notion was particularly asserted by a range of prominent Zionist thinkers including Israel Zangwill and Chaim Weizmann,²⁰ and repeated by proponents such as the British statesman Lord Shaftesbury.²¹ Such ideas closely echoed European justifications for colonialism throughout the world through the principle of ‘terra nullius’, which resulted in the ethnic cleansing and genocide of countless indigenous peoples in modern-day Canada, the United States, Australia, and New Zealand, for example.

19. Zionist ideologues before the creation of the State of Israel simultaneously attempted to erase the idea that an indigenous population existed in Palestine, touted the possibility of peaceful voluntary transfer of the Palestinian population, and employed a range of ethno-nationalist arguments in an attempt to diminish the worth of the indigenous population and suggest that their elimination was unimportant or even necessary. Zionism was also eliminatory of Jewish identity itself in its campaign to ‘civilize’ the Ashkenazi Jewish population of Europe and homogenize Jewish identity, by erasing the identity of Middle Eastern Jews through forced assimilation.²²

¹⁹ Rashid Khalidi, *Palestinian National Identity: The Construction of Modern National Consciousness* (Columbia University Press, 1997); Anita Shapira, *Land and Power: The Zionist Resort to Force, 1888-1948* (Stanford University Press, 1992).

²⁰ In 1901 Zangwill proclaimed ‘Palestine is a country without a people’, see: Israel Zangwill ‘The Return to Palestine’, *New Liberal Review* (London), 2nd December 1901, p.627; Nur Masalha, *Expulsion of the Palestinians: The Concept of “Transfer” in Zionist Political Thought*. (Institute for Palestine Studies 1992) 5-6.

²¹ Masalha, *Expulsion*, 6.

²² Joseph F. Getzoff, ‘Zionist frontiers: David Ben-Gurion, Labor Zionism and transnational circulations of settler development’ (2019) 10 *Settler Colonial Studies* 74, 80-82; Noura Erakat, ‘Whiteness as Property in Israel’ (2015) 31 *Harvard Journal of Racial and Ethnic Justice*, 69.

Ethno-nationalist justifications for colonisation

20. Zionist ideology rested on the principle that the Jewish people were ethnically superior to the indigenous population of Palestine and that the fate of the indigenous population was less important. The indigenous population was perceived as "a nomadic, mindless, and essentially inconsequential non presence on the land of Israel".²³
21. Jabotinsky argued, for example, that Muslims were less civilized than Jews, justifying their removal. He said: "We Jews, thank God, have nothing to do with the East. . . The Islamic soul must be broomed out of Eretz-Yisrael. . . [Muslims are] yelling rabble dressed up in gaudy, savage rags".²⁴ Zionist thinker Chaim Weizmann also viewed Arabs as racially inferior, arguing that "the Arab is primitive and believes what he is told",²⁵ a perspective that meant that they were akin to "the rocks of Judea, as obstacles that had to be cleared on a difficult path".²⁶ Such racist logic was repeated by British foreign secretary and author of the 1917 Balfour Declaration, Lord Balfour, who argued in 1919 that Zionism was "of far greater import than the desires and prejudices of 700,000 Arabs who now inhabit that ancient land".²⁷

Erasing Other Identities

22. Zionist ideology not only held deeply racist views towards Muslim and Christian Arab Palestinians, but Zionist thinkers also frequently espoused racist views about Middle Eastern Jews, who later were forced to renounce their Arabic language and culture to be accepted into Israeli society.²⁸ Zionists even denigrated what they viewed as the vestiges

²³ Edward Said, 1986, 33-4

²⁴ Masalha, *Expulsion*, 29.

²⁵ Tom Segev, *One Palestine Complete: Jews and Arabs Under the British Mandate* (1st Edition, Abacus, 2001), 109.

²⁶ Masalha, *Expulsion*, 17.

²⁷ 'Origins and Evolution of the Palestine Problem 1917-1947 (Part 1)' (United Nations, n.d.)

<<https://www.un.org/unispal/history2/origins-and-evolution-of-the-palestine-problem/part-i-1917-1947>> accessed 16 February 2024.

²⁸ Erakat, 'Whiteness'

of Middle Eastern elements within some European Jews, viewing them as backward and undeveloped.²⁹ As Jabotinsky argued:³⁰

“To the extent that our uneducated masses have ancient spiritual traditions and laws that call the Orient, they must be weaned away from them, and this is in fact what we are doing in every decent school, what life itself is doing with great success. We are going in Palestine, first for our national convenience, [second] to sweep out thoroughly all traces of the 'Oriental' soul.”

Colonisation and Transfer

23. Where Zionist ideology recognized the existence of an indigenous population in the land of historic Palestine, its leaders consistently spoke of the need to transfer the population from the land to create a Jewish state. Early on, in 1895 Theodor Herzl, a founding father of Zionism, said:

“We shall try to spirit the penniless population across the border by procuring employment for it in the transit countries, while denying it employment in our country. The property owners will come over to our side. Both the process of expropriation and the removal of the poor must be carried out discretely and circumspectly.”³¹

24. In 1882, Zionist pioneers Ben-Yehuda and Yehiel Michal Pines argued that “[t]here are now only five hundred [thousand] Arabs, who are not very strong, and from whom we shall easily take away the country”.³² Similarly, socialist Zionist Hahman Syrkin argued in 1898 that Palestine “must be evacuated for the Jews”,³³ and in 1882 Zionist proponent Validimir Dubnow argued that the Zionist goal was to “take over the Land of Israel”.³⁴ In

²⁹ Getzoff, ‘Zionist frontiers’, 80.

³⁰ Segev, *One Palestine Complete*, 151.

³¹ Masalha, *Expulsion*, 9.

³² Benny Morris (1991) *Righteous Victims: A History of the Zionist-Arab Conflict, 1881-1999* (Vintage Books, 2001) 49.

³³ Masalha, *Expulsion*, 11.

³⁴ Masalha, *Expulsion*, 49.

1919, Winston Churchill highlighted the predominance of the view among Zionists that the indigenous population would be transferred, saying that "there are the Jews, whom we are pledged to introduce into Palestine, and who take it for granted the local [Palestinian] population will be cleared out to suit their convenience".³⁵

25. Early Zionist thinking kept the idea of transfer in the background of its ideology and downplayed the violence it would involve, but the idea of transfer persisted, and by the 1930s there was "full-throated near consensus" on the need for transfer.³⁶ Zionist thinkers expressed more assertive and specific plans for removal of the native population and increasingly recognised the need for coercive transfer, in light of Palestinian resistance to Jewish settlement. Zionist founding father Menachem Ussishkin argued of the principle of compulsory transfer that "it is most moral ... I am ready to come and defend ... it before the Almighty". Jabotinsky also took a hard-line stance, developing the notion of an "iron wall", the use of military force to protect Jewish settlement,³⁷ arguing that "Zionism is a colonising adventure and, therefore, it stands or falls on the question of armed forces".³⁸
26. David Ben Gurion, meanwhile, repeatedly expressed support for "compulsory transfer", which he argued was "impossible to imagine... without compulsion... and brutal compulsion". While ostensibly on the other end of the political spectrum, Ben Gurion's stance became virtually identical to Jabotinsky's 'iron wall' stance.³⁹ Indeed, it is important to note, as genocide scholar Martin Shaw points out, that the Hebrew word 'tihar' translated as 'transfer' in English, has a more expansive meaning, and is "closer in meaning to 'purification' or 'cleansing'", and "thus the ideology of transfer generally pointed in a genocidal direction".⁴⁰

³⁵ Masalha, *Expulsion*, 15.

³⁶ Benny Morris, *Birth of the Palestinian Refugee Problem Revisited* (Cambridge University Press 2004) 44.

³⁷ Avi Shlaim, *The Iron Wall: Israel and the Arab World* (2nd edn, Norton 2014) 73

³⁸ Nur Masalha, *Expulsion of the Palestinians*, 45

³⁹ Avi Shlaim, *Iron Wall*, 76

⁴⁰ Martin Shaw, 'Palestine in an international historical perspective on genocide' (2010) 9 Holy Land Studies 1.

2.1.3 The link between Zionist ideology and actions

27. Zionist discussions among Ben Gurion, Jabotinsky, and their followers about coercive ‘transfer’ during the 1930s and 40s were subsequently put into practice in 1948 during Plan Dalet, under the leadership of David Ben Gurion. Plan Dalet officially aimed to ethnically cleanse Palestinians from the territory of historic Palestine.⁴¹ Its implementation, known as the Nakba, saw massacres,⁴² the destruction of towns and villages,⁴³ and the ethnic cleansing of 750,000 Palestinians.⁴⁴ As Israeli historian Ilan Pappé points out, "clashes with local Palestinian militias provided the perfect context and pretext for implementing the ideological vision of an ethnically cleansed Palestine".⁴⁵ Such mass violence was repeated in the massacre of Palestinian refugees at Sabra and Shatila in 1982 following Israel’s invasion of Lebanon.⁴⁶
28. Overtly extremist Zionist views gained popularity in 1984, with the establishment of the Kahanist religious Zionist ideology, an ideology that espouses overt racism and violence towards Palestinians, advocates for the enslavement or displacement of Palestinians, and has inspired massacres.⁴⁷ It is frequently described as ‘fascist’.⁴⁸ Kahane, the founder of

⁴¹ Its implementation went much further than ethnic cleansing of the territory allocated to a Jewish state, capturing 76 per cent of Historic Palestine versus its allocated 56 per cent, see: ‘The Question of Palestine’ (United Nations, n.d.) <www.un.org/unispal/history/> accessed 16 February 2024.

⁴² Ilan Pappé, *The Ethnic Cleansing of Palestine* (OneWorld Publications, 2007); Benny Morris, *Birth*.

⁴³ Ilan Pappé, *The Ethnic Cleansing of Palestine* (OneWorld Publications, 2007); Benny Morris, *Birth*..

⁴⁴ UNRWA, ‘Report of the Commissioner General of the United Nations Relief and Works Agency for Palestine in the Near East’. (Supplement 13, 63rd Session of the United Nations General Assembly 2008) <<https://www.unrwa.org/userfiles/20100118141933.pdf>> accessed 16 February 2024.

⁴⁵ Ilan Pappé, *Ethnic Cleansing* (preface).

⁴⁶ See Section 2.3.5 titled The Sabra and Shatila Camp Massacres

⁴⁷ ‘Fact Sheet: Meir Kahane and the Extremist Kahanist Movement’ (Institute for Middle East Understanding, 2021) <<https://imeu.org/article/fact-sheet-meir-kahane-the-extremist-kahanist-movement>> accessed 16 February 2024

⁴⁸ See for example: ‘Fact Sheet’; Yossi Klein, ‘It’s official now: fascism is us’, *Haaretz* (Tel Aviv, 4 November 2023) <<https://www.haaretz.com/opinion/2022-11-04/ty-article-opinion/.premium/its-official-now-fascism-is-us/00000184-3f3a-d253-a196-3fbed3850000>> accessed 16 February 2024; Ehud Sprinzak, ‘Kach and Meir Kahane: The emergence of Jewish quasi-fascism I: origins and development’ 19 *Patterns of Prejudice* 15.

the movement, grew up in a Revisionist home, his father having worked for Jabotinsky.⁴⁹ Not only is this ideology not on the fringes of Israeli society today, but remains a significant inspiration for key members of the current government, including Itamar Ben-Gvir, who has idolized the Kahanist mass murderer Baruch Goldstein.⁵⁰

29. Similar extreme Zionist views can be seen in multiple other political strands in Israel; for example, in the Religious Zionist ideology, the ideological foundation for the Religious Zionist political party. The party, which is part of the current coalition government, is represented by Finance Minister Bezalel Smotrich, a self-described "fascist homophobe" who claimed there was "no such thing as Palestinians" and that Israelis were "the real Palestinians".⁵¹
30. Avigdor Liberman, who has served in multiple government roles since 1999, including Deputy Prime Minister and recently Minister of Finance, has proposed a plan of land transfer of a small number of areas with a majority of Palestinian citizens of Israel to Palestinian territory while annexing Israeli settlements in the West Bank to Israel.⁵² Liberman is a co-founder of the Yisrael Beiteinu, which is a party "with a clear vision to follow in the brave path of Zev Jabotinsky".⁵³

⁴⁹ David B. Green, 'Who was Meir Kahane and why is his racist legacy relevant again', *Haaretz* (Tel Aviv, 28 March 2021) <<https://www.haaretz.com/israel-news/elections/2021-03-26/ty-article-magazine/.premium/israel-election-who-was-meir-kahane-and-why-is-his-racist-legacy-relevant-again/0000017f-db3c-df62-a9ff-dfffe2fa0000>> accessed 16 February 2024.

⁵⁰ Frank Andrews, 'Israel: Ben-Gvir speech by memorial for "martyrs" Baruch Goldstein and Meir Kahane', *Middle East Eye* (2 May 2023) <<https://www.middleeasteye.net/news/israel-ben-gvir-baruch-goldstein-meir-kahane-memorial-martyrs->> accessed 16 February 2024.

⁵¹ Times of Israel Staff, 'Smotrich says there's no Palestinian people, declares his family "real Palestinians"' *Times of Israel* (Jerusalem, 20 March 2023). <<https://www.timesofisrael.com/far-right-lawmaker-bezalel-smotrich-declares-himself-his-family-real-palestinians/>> accessed 16 February 2024.

⁵² Stuart Winer, 'Liberman defends his population transfer plan', *Times of Israel* (Jerusalem, 8 January 2014) <<https://www.timesofisrael.com/liberman-defends-his-population-transfer-plan/>> accessed 16 February 2024.

⁵³ 'Guide to Israel's political parties' *BBC News* (London, 21 January 2013) <<https://www.bbc.co.uk/news/world-middle-east-21073450>> accessed 16 February 2024.

31. Israel's Prime Minister Netanyahu himself is influenced by the teachings of Jabotinsky, referring in 2023 to "we, the students of Jabotinsky" and arguing that "one hundred years after the 'iron wall' was stamped in Jabotinsky's writings we are continuing to successfully implement these principles."⁵⁴

2.1.4 Extremist ideologies as an indication of genocidal intent in previous jurisprudence

32. It is critical to note here that extremist ideologies have been noted by several tribunals, including the ICC, to indicate the existence of criminal intent.

33. In the ICTY Case of *Prosecutor v. Radovan Karadžić*, where Radovan Karadžić, the former President of Republika Srpska in Bosnia and Herzegovina, was charged with genocide, crimes against humanity, and war crimes, the Tribunal considered evidence of Karadžić's nationalist ideology, as well as his speeches and statements promoting ethnic supremacy and hatred towards Bosniak and Croat populations, to establish his intent to commit genocide and other crimes against non-Serb populations during the Bosnian War.⁵⁵

34. In the ICTR case *Prosecutor v. Nahimana et al*, Ferdinand Nahimana, along with Jean-Bosco Barayagwiza and Hassan Ngeze, were convicted for their roles in inciting and conspiring to commit genocide through the media during the 1994 Rwandan genocide. The tribunal examined evidence of hate propaganda disseminated through radio broadcasts and newspapers, including Radio Télévision Libre des Mille Collines (RTL) and Kangura newspaper, to establish the defendants' intent to incite violence against the Tutsi population. The dissemination of extremist ideologies and hate speech played a significant role in establishing their criminal intent.⁵⁶

⁵⁴ 'Excerpt from PM Netanyahu remarks at the State Memorial Ceremony for Ze'ev Jabotinsky' (*Government of Israel*, 18 July 2023) <<https://www.gov.il/en/departments/news/event-ceremony180723>> accessed 16 February 2024.

⁵⁵ *Prosecutor v. Karadžić* (Judgement) IT-95-5/18-T (24 March 2016).

⁵⁶ *Prosecutor v. Nahimana, Barayagwiza, and Ngeze*, Case No. ICTR-99-52-T, Judgment (ICTR Nov. 3, 2003).

35. Another reference to this factor appeared in the ICC case of *Prosecutor v. Dominic Ongwen*, where Dominic Ongwen, a former commander in the Lord's Resistance Army (LRA) in Uganda, was charged with crimes against humanity and war crimes. In his case, evidence was presented regarding the LRA's ideological framework, including its leader Joseph Kony's messianic ideology and the group's use of religious rhetoric to justify its actions. The prosecution argued that Ongwen's participation in the LRA's activities, including attacks on the civilian population, was influenced by the group's extremist ideology, contributing to his criminal intent.⁵⁷
36. Another example of a reference to ideology when establishing criminal intent appeared in the sixth report of Karim A. A. Khan, the then Special Advisor and Head of the United Nations Investigative Team to Promote Accountability for Crimes Committed by Daesh/ISIL in Iraq and Levant (UNITAD). The report referred to "information on ideological doctrine" of ISIL, which affected their policies towards Shia Muslims, among others.⁵⁸
37. It is further critical to reflect upon the UNGA Resolution 3379 of 1975 which "Determine[d] that Zionism is a form of racism and racial discrimination".⁵⁹ We bring the Court's attention to the fact that this resolution has been revoked by UNGA Resolution 46/86 of 1991 after Israel made it a condition to engage with the Madrid peace process.⁶⁰

2.1.5 Conclusion

38. As this section has demonstrated, eliminatory policies are an inherent feature of Zionist ideology. These eliminatory policies have become increasingly extreme and violent since the early 20th century, feeding into Israeli policies, and leading to instances of massacres

⁵⁷ *Prosecutor v. Ongwen* (Judgement) ICC-02/04-01/15 (4 February 2021).

⁵⁸ UNSC 'Sixth Report of the Special Advisor and Head of UN Investigative Team to Promote Accountability for Crimes Committed by Daesh/ISIL in Iraq and Levant' (3 May 2021) Report S/2021/419 paras 16 & 19.

⁵⁹ Adopted with 72 votes in favour, 35 votes against, and 32 abstentions. Accessible at: <https://web.archive.org/web/20121206052903/http://unispal.un.org/UNISPAL.NSF/o/761C1063530766A7052566A2005B74D1>

⁶⁰ <https://www.aljazeera.com/news/2011/8/29/timeline-key-moments-at-the-united-nations/> / <https://israeled.org/un-resolution-3379-passed/> Noura / Hannan Ashrawi

and expulsions. Eliminary Zionist ideology, in particular Jabotinsky's Revisionist Zionism, has been the ideological foundation of the views of modern-day leaders, including Prime Minister Netanyahu. Moreover, the most extreme manifestations of Zionism, including Kahanism and Religious Zionism, are also represented in the current government. This ideology has been determined as "racist" by the United Nations General Assembly in its revoked Resolution 3379. Finally, extremist ideologies have been a key consideration in establishing criminal and genocidal intent, as per the judgments of the ICTY, ICTR, and ICC itself, as well as the Sixth Report of Mr. Karim Khan as the Special Advisor and Head of UNITAD. Zionist ideology, a well-established fixation in the mindset of Israeli leaders, clearly claims that Palestinians are eternal enemies of their project and should be eventually eliminated.

2.2 Denial of Right to Return

39. The Right of Return is a fundamental pillar of the Palestinian people's right to self-determination.⁶¹ As elucidated in a study commissioned for the Committee on the Exercise of the Inalienable Rights of the Palestinian People, "in the case of the Palestinian people, the individual or personal right of return assumes a special significance for without its restoration, the exercise of the collective or national right of self-determination, itself guaranteed by a variety of international instruments,⁶² becomes impossible."⁶³ This right stems from the Nakba of 1948, a watershed event that uprooted countless Palestinian lives and severed their longstanding ties to their homeland during the establishment of the State of Israel. This cataclysm saw over 750,000 Palestinians compelled to flee amidst massacres, mass expulsions, and forcible transfers. "Since then, they have endured forced displacement, dispossession, and disenfranchisement, with

⁶¹ OHCHR 'Right of return of Palestinian refugees must be prioritised over political considerations: UN experts' (OHCHR, 21 June 2023) <www.ohchr.org/en/statements/2023/06/right-return-palestinian-refugees-must-be-prioritised-over-political> accessed 17 February 2024.

⁶² United Nations Secretariat 'Right of Self-Determination of the Palestinian People' (1979) Un Doc ST/SG/SER.F/3.

⁶³ Committee on the Exercise of the Inalienable Rights of the Palestinian People, Special Unit on Palestinian Rights 'The Right of return of the Palestinian People' (CEIRPP 1978) <<https://www.un.org/unispal/document/auto-insert-210170/>> accessed 18 March 2024.

their rights to self-determination, restitution, and compensation repeatedly denied.”⁶⁴ There are currently more than 5.9 million registered Palestinian refugees⁶⁵, with the majority residing primarily in neighboring Jordan, Lebanon, and Syria, while 40 percent continue to endure under occupation in the Gaza Strip and the West Bank, including East Jerusalem. The diaspora of Palestinian exiles has progressively scattered them across various nations worldwide.⁶⁶

40. Despite the UNGA and the UNSC’s consistent calls on Israel to facilitate the return of Palestinian refugees to Palestine,⁶⁷ Israel has systematically denied Palestinian refugees their right to return since 1948.⁶⁸ During deliberations concerning Israel’s admission to U.N. membership in 1949, the Israeli representative advocated for resettlement in neighboring countries as the main principle of solution.⁶⁹ This stance is fueled by discriminatory Israeli “Law of Return”, which gives Jews from all over the world the right to settle in Israel or West Bank settlements and attain Israeli citizenship, while simultaneously negating the Right of Return for Palestinians.⁷⁰

41. To this day, Israel continues to withhold the right of return from Palestinians in Gaza, who comprise 80% of the Strip’s population, as well as from other Palestinian refugees worldwide. This reality underscores Israel’s longstanding policy aimed at maintaining Jewish Israeli dominance over Palestinians, a facet of its apartheid practices constituting

⁶⁴ OHCHR ‘Right of return’. See footnote 61.

⁶⁵ UNRWA ‘Palestine refugees’ <<https://www.unrwa.org/palestine-refugees>> accessed 18 March 2024.

⁶⁶ OHCHR ‘Right of return’. See footnote 61.

⁶⁷ For instance, UNGA Resolution 194 III (11 December 1948), which was cited in the preamble of UNGA Resolution 273 (III) concerning Israel’s admission to the United Nations. Resolution 194 III has been reiterated by the UNGA on multiple occasions over the years. For more recent resolutions, refer to UNGA Resolution 70/15 (24 November 2015) and UNGA Resolution 69/89 (5 December 2014).

⁶⁸ OHCHR ‘Right of return’. See footnote 61.

⁶⁹ Official Records of the General Assembly, Third session, part II, Ad Hoc Political committee 46th meeting – p. 264.

⁷⁰ Human Rights Watch ‘A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution’ (27 April 2021), p. 48.

a crime against humanity.⁷¹ This policy aligns with Israel's ongoing efforts to forcibly displace Palestinians and fragment the Palestinian populace, furthering its settler-colonial project, as underscored by U.N. experts.⁷² As Israel once again threatens mass displacement of Palestinians, this time from Gaza to Sinai, it behooves us to recall its historical denial of the right of return, indicating an intent for permanent displacement. Such actions may be deemed genocidal under the Genocide Convention, as articulated in a joint declaration by several states in the ICJ Gambia case.⁷³

2.2.1. The Sabra and Shatila Camp Massacres

42. Besides the continual denial of their right to return, instances of systematic exterminatory violence against Palestinian refugees are evident. For instance, the massacre of Palestinian civilians in the Sabra and Shatila camps during the Israeli invasion of Lebanon in 1982 serves as a poignant example of such exterminating violence.⁷⁴
43. Between September 16 and 18, 1982, whilst Israeli armed forces surrounded the camps, Israeli-supported militias massacred inhabitants in an egregious display of violence and flagrant disregard for human life and dignity.⁷⁵ The number of victims is disputed, but ranges from 2,000 to 4,000.⁷⁶ The majority of the victims were Palestinian refugees from the Nakba in 1948 and their descendants. In its thirty-seventh session on December 16,

⁷¹ Ibid, pp. 44 – 78; Amnesty International ‘Israel’s apartheid against Palestinians: Cruel system of domination and crime against humanity’ (1 February 2022); Quigley, J. Prohibition of Palestine Arab Return to Israel as a Crime Against Humanity. *Crim Law Forum* 34, 1–41 (2023). <https://doi.org/10.1007/s10609-022-09450-8>

⁷² OHCHR ‘Right of return’. See footnote 61.

⁷³ International Court of Justice. Joint Declaration of Intervention of Canada, The Kingdom of Denmark, The French Republic, The Federal Republic of Germany, The Kingdom of The Netherlands, and The United Kingdom of Great Britain and Northern Ireland, Pursuant to Article 63 of the Statute of the International Court Of Justice, in The Case of Application of The Convention on The Prevention and Punishment of The Crime Of Genocide (The Gambia V. Myanmar).

⁷⁴ UNSC Res 521 (19 September 1982) UN Doc S/RES/521; UNGA ‘Palestine question/Massacre of Palestinians in Beirut – GA emergency session – Resolution’ (24 September 1982) UN Doc A/RES/ES-7/9.

⁷⁵ ‘Israel in Lebanon: Report of the International Commission to Enquire into Reported Violations of International Law by Israel during Its Invasion of the Lebanon’ (1983) 12 *Journal of Palestine Studies* 117

⁷⁶ Bayan Nuwehid-al-Hout, *Sabra and Shatila, September 1982* (Institute for Palestine Studies 2003) 518-523.

1982, the United Nations General Assembly resolved that the massacre was an act of genocide.⁷⁷

44. Not only was Israel responsible for the civilians in Sabra and Shatila in its capacity as an Occupying Power, but the Israeli military also facilitated the massacre by preventing Palestinian refugees from escaping. An independent International Commission of Inquiry held that Israel bore “heavy legal responsibility” for the massacres, as an Occupying Power. Moreover, it found that Israel “was involved in the planning and the preparation of the massacres and played a facilitative role in the actual killings”.⁷⁸
45. The Sabra and Shatila massacres display an ongoing historical genocidal intent directed against the Palestinian people since 1948, and in this instance against the Palestinian refugees in Lebanon who had been historically displaced from Palestine in 1948. Moreover, Israel used unjustified and indiscriminate accusations of terrorism against the entire male populations of Sabra and Shatila as justifications for its siege, a dehumanizing practice that it continues to apply to the Palestinians in Gaza, including their core refugee population.⁷⁹

2.3 A Brief Historical Contextualisation of Gaza

46. This section will provide 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. The overview will continue through to the beginning of the

⁷⁷ UNGA Res 37/123D (16 December 1982) United Nations Doc A/RES/37/123D. In the same session, UNGA called for sanctions against Israel.

⁷⁸ Conclusion 8, published in ‘Israel in Lebanon: Report of the International Commission to Enquire into Reported Violations of International Law by Israel during Its Invasion of the Lebanon’ (1983) 12(3) *Journal of Palestine Studies*, 117-133 <<https://www.jstor.org/stable/2536156>> accessed 17 February 2024.

⁷⁹ On 10 September 1982, Sharon claimed without evidence that ‘2,000 armed terrorists’ remained in the camps, see: Ariel Sharon, ‘Gains from the war in Lebanon’ *The New York Times* (New York, 29 September 1982) 2-5; Richard Falk, ‘The Kahan Report: Banishing the Palestinian Ordeal’ *Middle East Report* 115 (June 1983) section 5.3.

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. 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, recognizing the historic violations by Israel against the Palestinian people that now reside in the territory.⁸⁰

2.3.1 1947-49, the Start of the Nakba⁸¹ and the Creation of Gaza

47. Following the First World War, which ended the Ottoman Turkish rule of the Palestinian and other Arab regions, Gaza, along with the entirety of historic Palestine, was placed under the authority of Great Britain through the British Mandate of Palestine by the League of Nations.⁸² Before the beginning of the Nakba in 1947, Gaza was part of the much larger district, which included Beersheba and the Naqab desert.⁸³ Gaza was an important economic hub within Palestine, the Mediterranean regionally as well as internationally.⁸⁴
48. Before the Nakba began, Gaza had an indigenous Palestinian population of around 125,000.⁸⁵ After the start of the Nakba, where Zionist forces started persecuting and ethnically cleansing Palestinians from their homes, villages, and land, some 180,000 refugees fled to Gaza from across Palestine.⁸⁶ Recorded evidence shows that the population of Gaza more than doubled or possibly even tripled due to the influx of refugees from neighbouring parts of Palestine, resulting in a population density of 1,800

⁸⁰ *Prosecutor v Akayesu* (Judgment) ICTR-96-4-T (2 September 1998) 78.

⁸¹ For a definition of the Nakba, refer to Al-Haq, ‘Joint Submission to the United Nations Independent International Commission of Inquiry on the Occupied Palestinian Territory, including east Jerusalem, and Israel’ (Al-Haq 31 May 2022) 1 <https://www.alhaq.org/cached_uploads/download/2022/06/28/coi-submission-root-causes-of-israel-s-violations-1656395537.pdf> accessed 17 February 2024.

⁸² *Mandate for Palestine* (1922) League of Nations Official Journal 546-549.

⁸³ Jean-Pierre Filiu, *Gaza: A History* (1st edn, Hurst Publishers 2014) 40.

⁸⁴ Ann M. Lesch, ‘Gaza: Forgotten Corner of Palestine’ (1985) 15(1) *Journal of Palestine Studies*, 44.

⁸⁵ Ann M. Lesch, ‘Gaza: Forgotten Corner of Palestine’ (1985) 15(1) *Journal of Palestine Studies*, 44.

⁸⁶ Ann M. Lesch, ‘Gaza: Forgotten Corner of Palestine’ (1985) 15(1) *Journal of Palestine Studies*, 44.

people per square mile within modern-day Gaza.⁸⁷ By December 1949, a census had been taken of the refugee population and established that 202,606 Palestinians had fled to Gaza from ethnic cleansing by Israeli Zionist forces in the Nakba.⁸⁸

49. The importance of recognising the effects of the Nakba on Palestinians in Gaza, as well as on the wider Palestinian people as a whole, cannot be understated. Concerning Gaza, it must be remembered that of the current 2.3 million residents of Gaza, 1.4 million are registered Palestinian refugees, displaced from their homes within the Green Line during the Nakba in 1948.⁸⁹ Today, Gaza hosts eight Palestinian refugee camps operated by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), all of which are now severely overcrowded and underfunded.⁹⁰ The Rafah Refugee Camp, established in 1949 near the Egyptian border, began by sheltering 41,000 Palestinian refugees,⁹¹ however the population by 2017 had grown to 104,000 refugees.⁹² Beach refugee camp initially accommodated 23,000 refugees who fled Israeli violence from Lydd, Jaffa, Bir Saba' and other areas of Palestine.⁹³ The 2016 population of the Beach refugee camp was 87,000.⁹⁴ The Beach camp consists of an area of 0.52 square kilometres and is considered one of the most densely populated areas of the world.⁹⁵

⁸⁷ Beryl Cheal, 'Refugees in Gaza, December 1948-May 1950'(1988) 18(1) *Journal of Palestine Studies*, 138.

⁸⁸ Ann M. Lesch, 'Gaza: Forgotten Corner of Palestine' (1985) 15(1) *Journal of Palestine Studies*, 44.

⁸⁹ UNRWA, 'Where We Work: Gaza' (UNRWA, August 2023) <<https://www.unrwa.org/where-we-work/gaza-strip>> accessed 17 February 2024.

⁹⁰ UNRWA, 'Where We Work: Gaza' (UNRWA, August 2023) <<https://www.unrwa.org/where-we-work/gaza-strip>> accessed 17 February 2024.

⁹¹ UNRWA, 'Rafah Camp' (UNRWA, July 2023) <<https://www.unrwa.org/where-we-work/gaza-strip/rafah-camp>> accessed 17 February 2024.

⁹² Interpal, 'Rafah Refugee Camp, Gaza' (*Interpal*, 20 January 2017) <<https://www.interpal.org/20170120-rafah-refugee-camp-gaza/>> accessed 17 February 2024.

⁹³ UNRWA, 'Beach Camp' (UNRWA, July 2023) <<https://www.unrwa.org/where-we-work/gaza-strip/beach-camp>> accessed 17 February 2024.

⁹⁴ Interpal, 'Al Shati Refugee Camp, Gaza' (*Interpal*, 11 March 2016) <<https://www.interpal.org/20160311-al-shati-refugee-camp-gaza/>> accessed 4 February 2024.

⁹⁵ UNRWA, 'Beach Camp' (UNRWA, July 2023) <<https://www.unrwa.org/where-we-work/gaza-strip/beach-camp>> accessed 17 February 2024.

50. To this day, there has been no accountability for the abuses committed in the ongoing Nakba by Israel to the Palestinian people and the right of return for Palestinian refugees both in Gaza and around the world has been consistently and systematically denied with impunity by Israel.⁹⁶ Calls for accountability for Israel's crimes in the Nakba,⁹⁷ as well as allowance for Palestinians' right of return, such as the 2018 Great March of Return, have been met with flat denial or further Israeli violence.⁹⁸

2.3.2 Plan Dalet

51. Plan Dalet, adopted on March 10, 1948, formed the basis of a systematic plan of ethnic cleansing, which sought to drive Palestinian inhabitants from their villages.⁹⁹ The plan included detailed instructions for the destruction of villages, the siege of cities and the termination of vital services, methods intended to expel the local population.¹⁰⁰ As such, it forms a blueprint for a historical pattern of violence carried out against the Palestinian people and resulted directly in the large Palestinian refugee population within Gaza.

52. As a result of this systematic plan of expulsion and ethnic cleansing, over 750,000 Palestinians were driven out of their villages and towns.¹⁰¹ The displaced population

⁹⁶ Al-Haq, 'Joint Statement: The Nakba at 72: A Legacy of Settler Colonialism & Apartheid over the Palestinian People' (*Al-Haq*, 15 May 2020) <<https://www.alhaq.org/advocacy/16869.html>> accessed 4 February 2024.

⁹⁷ 'Catastrophe' in Arabic.

⁹⁸ Craig Jones, 'Gaza and the Great March of Return: Enduring violence and spaces of wounding' (2022), *Transactions of the Institute of British Geographers*, 48(2), pp. 249–262. doi:10.1111/tran.12567.

⁹⁹ Plan Dalet or 'Plan D' was a military strategy designed by the Haganah which was adopted on 10 March 1948. The Plan was distributed amongst commanders of the Haganah. See: Ilan Pappé, 'The 1948 Ethnic Cleansing of Palestine' (2006) 141(1) *Journal of Palestine Studies* 1-2.

¹⁰⁰ The English translation of Plan Dalet can be found in: Walid Khalidi, 'Plan Dalet: Master Plan for the Conquest of Palestine' (1988) 18(1) *Journal of Palestine Studies* 24-33.

¹⁰¹ Office of the United Nations High Commissioner for Human Rights, 'Right of return of Palestinian refugees must be prioritised over political considerations: UN experts' (*OHCHR*, 21 June 2023), <<https://www.ohchr.org/en/statements/2023/06/right-return-palestinian-refugees-must-be-prioritised-over-political>> accessed 4 February 2024

settled across the neighbouring lands, including in Lebanon and Gaza, where the current population is 80% refugees.¹⁰²

2.3.3 Gaza from 1948 to 2005

53. Following the beginning of the Nakba in 1948, what is now known as Gaza was created and then initially occupied and controlled by Egypt. Gaza was first occupied by Israel briefly during the Suez Crisis in 1956 (Second Arab-Israeli war).¹⁰³ This state of occupation existed from November 1956 to March 1957.¹⁰⁴ During this occupation, Israel committed a number of atrocities against the civilian occupation, including killing individuals believed to have carried arms.¹⁰⁵ One example of this was the massacre at Khan Yunis, where, according to different sources, somewhere between 200 to 500 people were executed by Israeli forces.¹⁰⁶
54. Following the withdrawal of the Israelis from Gaza following the Suez Crisis, the Egyptians returned and continued to govern as the occupying power of the territory. This remained the status quo until 1967 when the territory was again occupied by Israel during the Six-Day War. Unlike the events following the Suez Crisis, Israel did not withdraw from the territory following the armed conflict. Instead, since 1967, Israel has maintained effective control over Gaza and what is known today as the oPt. Israel has been administering the oPt on a supposed 'temporary' basis, as per their obligations under international humanitarian law, as an Occupying Power for nearly 56 years.¹⁰⁷ The Israeli occupation of the oPt and the Occupied Syrian Golan is the longest, internationally recognised belligerent occupation in modern history.

¹⁰² UNRWA, 'Where We Work' (August 2023) <<https://www.unrwa.org/where-we-work/gaza-strip>> Accessed 20 March 2024.

¹⁰³ Jean-Pierre Filiu, *Gaza: A History* (1st edn, Hurst Publishers 2014) 105.

¹⁰⁴ Jean-Pierre Filiu, *Gaza: A History* (1st edn, Hurst Publishers 2014) 105.

¹⁰⁵ Jean-Pierre Filiu, *Gaza: A History* (1st edn, Hurst Publishers 2014) 96-97.

¹⁰⁶ Jean-Pierre Filiu, *Gaza: A History* (1st edn, Hurst Publishers 2014) 96-97.

¹⁰⁷ Article 42, The Hague Regulations (1907); Yoram Dinstein, *The International Law of Belligerent Occupation* (Cambridge University Press 2009), paras 28, 30.

55. From 1967 to 2005, Israel maintained a military garrison within Gaza and allowed for illegal Zionist colonial settlements to be created in the territory. Israel maintained and presently maintains full control over Gaza’s land borders, air space, as well as access to the sea.¹⁰⁸

2.3.4. The 2005 “Disengagement Plan” and the Ongoing Siege of Gaza

56. In 2005, Israel implemented its “disengagement plan” from Gaza, which saw Israeli forces and settlers withdrawn from inside the territory while Israel maintained and continues to maintain exclusive effective control over Gaza’s airspace and territorial waters, as well as maintaining full control over its land borders, except the Rafah crossing.¹⁰⁹

57. Despite the implementation of the disengagement plan and Israel’s claims to have ceased occupying Gaza, the reality is that Israel continues to maintain effective control over Gaza, as per Article 42 of the Hague Regulations of 1907. This position has been recognized by previous United Nations Commissions of Inquiry,¹¹⁰ The ICC OTP,¹¹¹ The International Committee of the Red Cross,¹¹² and both the United Nations General Assembly and Security Council.

¹⁰⁸ Dr. Susan Power and Nada Kiswanson van Hooydonk, *Divide and Conquer: A Legal Analysis of Israel’s 2014 Military Offensive Against the Gaza Strip*, (Al Haq, 2014).

¹⁰⁹ UNGA ‘Report of the United Nations Fact Finding Commission on the Gaza Conflict’ (25 September 2009) United Nations Doc A/HRC/12/48, 278; Gisha, ‘Al-Haq’s Rejoinder to Gisha’s ‘Scale of Control’ Report: Israel’s Continued Responsibility as the Occupying Power in Gaza’ (*Gisha*, 18 December 2011) <<http://gisha.org/en/al-haqs-rejoinder-to-gishas-scale-of-control-report-israels-continued-responsibility-as-the-occupying-power-in-the-gaza-strip/>> accessed 17 February 2024.

¹¹⁰ OHCHR, ‘Report of the detailed findings of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1’ (24 June 2015) UN DOC A/HRC/29/52 para 30;

¹¹¹ International Criminal Court, Office of the Prosecutor, Situation on Registered Vessels of the Comoros, Greece and Cambodia, 6 November 2014, Article 53(1) Report p. 17.

¹¹² Peter Maurer, Challenges to International Humanitarian Law: Israel’s Occupation policy, International Committee Review the of the Red Cross, Vol. 94 number 888, p. 1506

58. In 2007, Israel declared Gaza “hostile territory” and took a range of measures aimed at, among other things, weakening its economy.¹¹³ The Israeli government restricted both the movement of people and the movement of goods in and out of Gaza.¹¹⁴

59. Israel has continued to limit the supplies of fuel, gas and essentials as well as the movement of people into Gaza, while imposing restrictions on fishing and agriculture, in violation of its obligations as an occupying power.¹¹⁵ It is crucial to emphasise that Israel maintains complete authority over Gaza's water, electricity, electromagnetic spectrum, airspace, land crossings, and civilian infrastructure.¹¹⁶ The population of Gaza comprises around 2.3 million individuals, with approximately 80 percent being refugees who originated from cities and villages now located within the Green Line.¹¹⁷ The UN Secretary General described the blockade of Gaza as “a continuing collective penalty against the population in Gaza.”¹¹⁸ Such acts of collective punishment include:

Restrictions on fishing

60. Since 2000, Israel has imposed restrictions to fishing operations to occur within limits fluctuating between 3 and 15 nautical miles, despite the 20 nautical metres agreed under

¹¹³ Israel Ministry of Foreign Affairs, ‘Security Cabinet Declares Gaza Hostile Territory’ (*Israel Ministry of Foreign Affairs*, September 19, 2007 <<https://www.gov.il/en/Departments/General/security-cabinet-declares-gaza-hostile-territory>> accessed 17 February 2024; On the policy to restrict movement in order to weaken the economy in Gaza, see: *Albassiouni v. Prime Minister*, HCJ 9132/07, State Submission, November 2, 2007, para. 44.

¹¹⁴ OHCHR, ‘Report of the detailed findings of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1’ (24 June 2015) UN Doc A/HRC/29/52.

¹¹⁵ UNGA ‘Israeli Practices Affecting the Human Rights of the Palestinian People in the Occupied Palestinian Territory, including east Jerusalem’ (2 October 2019) UN Doc A/74/468, para 22.

¹¹⁶ United Kingdom Government, ‘Overseas business risk: The Occupied Palestinian Territory’ (*GOV.UK*, 24 February 2022) para 2.5

<<https://www.gov.uk/government/publications/overseas-business-risk-palestinian-territories/overseas-business-risk-the-occupied-palestinian-territories>> accessed 17 February 2024.

¹¹⁷ UNRWA, ‘Where We Work’ (August 2023) <<https://www.unrwa.org/where-we-work/gaza-strip>> Accessed 20 March 2024.

https://www.ochaopt.org/sites/default/files/gaza_thematic_6_o.pdf

¹¹⁸ UNGA ‘Human rights situation in the Occupied Palestinian Territory, including east Jerusalem’ (5 March 2015) UN Doc A/HRC/28/45, para 70.

the Oslo Accords.¹¹⁹ Complete bans on fishing have been imposed in response to hostilities, amounting to collective punishment of the civilian population.¹²⁰ This is compounded by restrictions on the import of fishing equipment and a lack of electricity needed to safely process the catch.¹²¹ The Israeli navy has also used violent measures to enforce fishing limits and has developed a practice of firing at fishing boats, causing fatalities and injuries, detaining Palestinian fishermen, and confiscating boats, and fishing equipment.¹²²

61. Israeli measures on fishing severely limit fishing production in Gaza, further increasing the threat of food insecurity to an already vulnerable population.¹²³ United Nations sources indicate that Israeli restrictions have significantly reduced the supply of fish, crippled the livelihood of many Palestinians in Gaza, and exacerbated the food shortage. Moreover, restrictions target Gaza's economy, since the fisheries sector provides

¹¹⁹ UNOHCA, 'Israel expands fishing limits to 12 nautical miles amidst a rise in protection concerns' (The Monthly Humanitarian Bulletin, *UNOHCA*, 13 February 2019) <www.ochaopt.org/content/israel-expands-fishing-limits-12-nautical-miles-amidst-rise-protection-concerns#ftn1> accessed 17 February 2024.

¹²⁰ UNOHCA, 'Gaza's fisheries: record expansion of fishing limit and relative increase in fish catch; shooting and detention incidents at sea continue' (The Monthly Humanitarian Bulletin, *United Nations OHCA*, 19 November 2019) <www.ochaopt.org/content/gaza-s-fisheries-record-expansion-fishing-limit-and-relative-increase-fish-catch-shooting> accessed 17 February 2024; United Nations Human Rights Committee 'Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Richard Falk' (16 September 2013) 23rd Session (2013) UN Doc [A/HRC/23/21](https://www.unhcr.org/refugees/4a5c1d1d.html) para 14.

¹²¹ Food and Agriculture Organization of the UN, European Union and the French Agricultural Research Centre for International Development, '*Food Systems Profile - Palestine. Catalysing the sustainable and inclusive transformation of food systems*' (2023) 34-36.

¹²² UNOHCA, 'Israel expands fishing limits to 12 nautical miles amidst a rise in protection concerns' (The Monthly Humanitarian Bulletin, *UNOHCA*, 13 February 2019) <www.ochaopt.org/content/israel-expands-fishing-limits-12-nautical-miles-amidst-rise-protection-concerns#ftn1> accessed 17 February 2024; United Nations Human Rights Committee 'Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Richard Falk' (16 September 2013) 23rd Session (2013) UN Doc [A/HRC/23/21](https://www.unhcr.org/refugees/4a5c1d1d.html) para 14.

¹²³ United Nations Human Rights Committee 'Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Richard Falk' (16 September 2013) 23rd Session (2013) UN Doc [A/HRC/23/21](https://www.unhcr.org/refugees/4a5c1d1d.html) para 14; UNOHCA, 'Israel expands fishing limits to 12 nautical miles amidst a rise in protection concerns' (The Monthly Humanitarian Bulletin, *UNOHCA*, 13 February 2019) <www.ochaopt.org/content/israel-expands-fishing-limits-12-nautical-miles-amidst-rise-protection-concerns#ftn1> accessed 17 February 2024.

important employment.¹²⁴ In 2019, over 10 percent of the Palestinian population in Gaza is recorded to have relied on the fisheries sector.¹²⁵

Attacks on Gaza's agricultural systems

62. Israel has undermined Gaza's agricultural systems through its practice of aerial spraying with herbicides farming land along the perimeter fence, the physical barrier constructed by Israel along the border of Gaza.¹²⁶ The practice has been denied, but elsewhere confirmed by the Israeli military along with the justification of security.¹²⁷ These policies target Gaza's agricultural economy by destroying crops and, in turn, increasing food insecurity.

63. Israel also imposes restrictions on access to land in Gaza near the perimeter fence with Israel, which have been enforced by direct fire and land levelling operations.¹²⁸ In declaring parts of Gaza's agricultural land as prohibited, Israel undermines the livelihoods of tens of thousands of Palestinians in Gaza and violates their human rights, including the right to an adequate standard of living and food.¹²⁹ Over 80% of the

¹²⁴ The World Bank, 'Rapid Fishery and Aquaculture Sector Diagnosis Using Fishery Performance Indicators in Gaza' (*The World Bank*, May 2020), 5

<<https://openknowledge.worldbank.org/server/api/core/bitstreams/9428ee36-3d48-5f41-9968-fe4289cf607/content>> accessed 17 February 2024.

¹²⁵ The World Bank, 'Rapid Fishery and Aquaculture Sector Diagnosis Using Fishery Performance Indicators in Gaza' (*The World Bank*, May 2020), 6

<<https://openknowledge.worldbank.org/server/api/core/bitstreams/9428ee36-3d48-5f41-9968-fe4289cf607/content>> accessed 17 February 2024.

¹²⁶ UNGA 'Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories' (10 October 2018) 73rd Session (2018) UN Doc A/73/420 para 44.

¹²⁷ UNOCHA 'Humanitarian Bulletin: Occupied Palestinian territory' (*United Nations OCHA*, April 2017), 6 <www.un.org/unispal/wp-content/uploads/2017/10/HB100517.pdf> accessed 17 February 2024.

¹²⁸ UNOCHA 'Humanitarian Bulletin: Occupied Palestinian territory' (*United Nations OCHA*, April 2017), 6 <www.un.org/unispal/wp-content/uploads/2017/10/HB100517.pdf> accessed 17 February 2024.

¹²⁹ United Nations Human Rights Committee 'Human rights situation in the Occupied Palestinian Territory, including east Jerusalem' (22 August 2013) 24th Session (2013) UN Doc [A/HRC/24/30](#) para 20; UNGA 'Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories' (10 October 2018) 73rd Session (2018) UN Doc [A/73/420](#) para 32.

Palestinian population in Gaza depends on humanitarian assistance and requires food support.¹³⁰

Restrictions to Palestinian freedom of movement

64. Israel's blockade also consists of restrictions of freedom of movement for Palestinians wishing to exit Gaza. Travel between Gaza and the West Bank entails lengthy application procedures with low success rates and limited ability to appeal.¹³¹ Palestinians in Gaza in need of medical care are frequently not given exit permits, preventing vital medical appointments and treatments, thus restricting their right to access healthcare.¹³²
65. These practices contribute to Israel's policy of separation and alienation between Gaza and the West Bank,¹³³ disrupting families and preventing free movement for Palestinians in Gaza, as well as from accessing medical services. Despite these restrictions on travel, Israel's 2018 "Procedure for Settlement in Gaza by Residents of Judea and Samaria" allows residents to file for permanent settlement in Gaza whilst clarifying that settlement in the opposite direction is only possible "in the rarest cases."¹³⁴ Between March 2009 and March 2017, the Israeli army approved only six applications for Gaza residents to reside in the West Bank, in each case following the filing of a petition to Israel's Supreme Court. Four of the six cases involved children who had no one to care for them in Gaza.¹³⁵ By

¹³⁰ UNRWA 'Gaza_15 years of blockade' (UNRWA) <www.unrwa.org/gaza15-years-blockade> accessed 17 February 2024.

¹³¹ UNGA 'Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories' (10 October 2018) 73rd Session (2018) UN Doc [A/73/420](#) paras 16-17.

¹³² UNGA 'Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories' (10 October 2018) 73rd Session (2018) UN Doc [A/73/420](#) para 19-24.

¹³³ Policy declared, for example, in the State's response in: Israeli High Court of Justice, *Azza Izzat and others v. Minister of Defence*, Case No. HCJ 495/12, 16 August 2012, para. 26. Available at www.gisha.org/UserFiles/File/LegalDocuments/495-12/495-12-Excerpts-from-state-response16.08.12.pdf.

¹³⁴ Israel Coordinator of Government Activities in the Territories (COGAT), 'Procedure For Settlement In Gaza By Residents Of Judea And Samaria Area' (COGAT, May 2018) <bit.ly/3cxcg4f> accessed 17 February 2024.

¹³⁵ Gisha, 'In Response to Freedom of Information Application Filed by Gisha, COGAT Confirms: Only One Application Processed Under the 'settlement procedure' in the Past Year' (*Gisha*, 21 March 2017) <gisha.org/legal/6404> accessed 17 February 2024.

contrast, between January 2011 and August 2014, the army approved 58 applications for West Bank residents to relocate to Gaza on the condition they sign a pledge never to return to the West Bank.¹³⁶ In addition, between 2004 and 2017, the Israeli army deported more than 130 Palestinians from Gaza living in the West Bank back to Gaza without a valid Israeli-issued permit.¹³⁷

66. In addition, Israeli policies encourage the emigration of Palestinians from Gaza out of the oPt altogether. In August 2019, a senior official reportedly close to Netanyahu told Israeli journalists that authorities were actively promoting the emigration of Palestinians from Gaza and would cover the emigration costs, even allowing Palestinians to use an Israeli airfield to leave for their new host countries.¹³⁸

2.4 Israeli Offensives Against Gaza

67. Since it imposed its blockade on Gaza, Israel has consistently conducted military campaigns on Gaza, weakening its already fragile infrastructure. Four main aggressions were widespread and have systematically targeted civilians, erasing whole families from the civil registry and destroying civilian infrastructure.

¹³⁶ HaMoked, 'The military's response to an inquiry by HaMoked and Gisha' (*HaMoked*, 30 March 2015) <www.hamoked.org/Document.aspx?dID=Updates1510> accessed 17 February 2024.

¹³⁷ Human Rights Watch, "'Forget About Him, He's Not Here"; Israel's Control of Palestinian Residency in the West Bank and Gaza' (*Human Rights Watch*, February 2012) <www.ecoi.net/en/file/local/1193624/2016_1329144654_iopt0212webwcover.pdf> accessed 17 February 2024, 9; HaMoked, 'Military Data Reveals: Sharp Rise in the Number of People Deported by the Military from their West Bank Homes to Gaza, due to Their Out of Date Addresses in the Israeli Copy of the Population Registry' (*HaMoked*, 20 December 2017) <<https://hamoked.org/document.php?dID=Updates1942>> accessed 17 February 2024.

¹³⁸ Raphael Ahren, 'Israel Actively Pushing Palestinian Emigration from Gaza, Official says' *Times of Israel* (Jerusalem, 19 August 2019) <www.timesofisrael.com/israel-actively-pushing-palestinian-emigration-from-gaza-official-says/> accessed 17 February 2024.

2.4.1 December 2008 Aggression

68. In December 2008, Israel launched its military operation ‘Cast Lead’ against Gaza that lasted for 21 days, killing 1,387 Palestinians, most of whom were civilians.¹³⁹ The United Nations Fact Finding Mission on the Gaza Conflict reported various incidents where Israel deliberately targeted and bombed the civilian population in their homes and on the streets while they were fleeing to a safer place.¹⁴⁰
69. Israel also targeted foundations of civilian life in Gaza, destroying industrial infrastructure including 324 factories, food production facilities, water installations, sewage treatment facilities, and houses.¹⁴¹ Some seven government institutions were either completely or partially destroyed and 11 municipal facilities were completely destroyed.¹⁴² Israel also deliberately targeted and attacked 29 police stations,¹⁴³ killing 247 members of the police during the operation. Hospitals and medical facilities were also bombed. An Israeli missile landed directly on one of the Al-Quds hospital buildings and caused damage to neighboring buildings.¹⁴⁴ Israeli forces also attacked Al-Wafa Hospital with tanks firing in and around the hospital buildings and dropped white phosphorus into the hospital buildings, causing damage to one of its buildings.¹⁴⁵ It is important to note that hospitals, which are protected structures under International Humanitarian Law, are

¹³⁹ B’Tselem, ‘B’Tselem publishes complete fatality figures from Operation Cast Lead’ (*B’Tselem*, 9 September 2009) <http://www.btselem.org/English/Press_Releases/20090909.asp> accessed 17 February 2024.

¹⁴⁰ UNGA ‘Report of the United Nations Fact Finding Commission on the Gaza Conflict’ (25 September 2009) UN Doc A/HRC/12/48, paras 706-801.

¹⁴¹ UNGA ‘Report of the United Nations Fact Finding Commission on the Gaza Conflict’ (25 September 2009) UN Doc A/HRC/12/48, paras 913 -1007.

¹⁴² UNGA ‘Report of the United Nations Fact Finding Commission on the Gaza Conflict’ (25 September 2009) UN Doc A/HRC/12/48, para 365.

¹⁴³ UNGA ‘Report of the United Nations Fact Finding Commission on the Gaza Conflict’ (25 September 2009) UN Doc A/HRC/12/48, para 397.

¹⁴⁴ UNGA ‘Report of the United Nations Fact Finding Commission on the Gaza Conflict’ (25 September 2009) UN Doc A/HRC/12/48, para 602.

¹⁴⁵ UNGA ‘Report of the United Nations Fact Finding Commission on the Gaza Conflict’ (25 September 2009) UN Doc A/HRC/12/48, para 633.

frequently used as a place for refuge by Palestinians who are forced to evacuate their homes.

2.4.2. November 2012 Aggression

70. In November 2012, Israeli forces launched another military operation, ‘Pillar of Defence’, against Gaza that lasted for seven days and killed 107 Palestinians. During this assault, Israel continued its pattern of targeting both civilians and civilian infrastructure. For example, on November 18, 2012, 10 members of the same family, including five children and four women, were killed in an Israeli airstrike in their home in Gaza City.¹⁴⁶ Israel systematically targeted civilians by directing its attacks on residential buildings. During the seven-day assault, Israeli airstrikes destroyed or severely damaged 382 residential structures.¹⁴⁷ Hospitals were also a consistent target, forming part of an attempt to damage and destroy the health infrastructure of Gaza. During the period of aggression, the Jordanian Military Hospital, the European Hospital, and the Beit Hanoun Hospital were all directly hit by Israeli airstrikes.¹⁴⁸

2.4.3. July 2014 Aggression

71. For the third time in six years, Israel launched a military operation, ‘Protective Edge’, against Gaza in 2014. This ‘operation’ lasted for 51 days and killed 2,251 Palestinians. This aggression continued the policies of systematically targeting civilians, civilian homes, and infrastructure. During the 51 days, Israel carried out more than 6,000 airstrikes.¹⁴⁹ At least 142 families lost more than three family members in the same

¹⁴⁶ OHCHR, ‘Eight-day Gaza 2012 conflict/Accountability for alleged war crimes and human rights violations – HRC 22nd session – NGO statement (Amnesty International)’ (21 February 2013) UN Doc A/HRC/22/NGO/173.

¹⁴⁷ OHCHR, ‘Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1’ (6 March 2013) UN Doc A/HRC/22/35/Add.1, para 20.

¹⁴⁸ OHCHR, ‘Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1’ (6 March 2013) UN Doc A/HRC/22/35/Add.1, paras 25-26.

¹⁴⁹ OHCHR ‘Report of the detailed findings of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1’ (24 June 2015) UN DOC A/HRC/29/52.

incident as a result of the direct targeting of homes, with an overall total of 742 fatalities, most of whom were women and children.¹⁵⁰ The United Nations Independent Commission of Inquiry on the 2014 Gaza Conflict noted that the majority of attacks that caused civilian casualties were carried out using precision weapons, indicating Israel's intent to specifically target civilians as part of its operations.¹⁵¹ Three examples illustrate how Israel intentionally targeted civilians during its operations: in one case, 12 members of the same family, including 10 women and children, were killed in an airstrike as they were fleeing their family home after an attack targeted their neighbour's home.¹⁵² In another instance, five children were killed by an airstrike as they were evacuating their house after a roof-knock warning.¹⁵³ In the third instance, three children were killed as they were standing on their roof.¹⁵⁴

72. According to the United Nations Human Rights Council, Israel's interpretation of what is considered a military objective is very broad and includes the targeting of civilians.¹⁵⁵ During its ground operations during Operation 'Protective Edge', Israel heavily bombed the neighbourhoods of Khuza'a and Shujaiya, causing great destruction. Civilians who did not manage to evacuate the neighbourhoods before ground operations commenced were not permitted to flee the area, and Israel prohibited medical staff and goods from entering, leaving a high number of injured people and casualties without any medical assistance.¹⁵⁶ Over 12,600 housing units were totally destroyed as a result of the

¹⁵⁰ UNOCHA 'Fragmented Lives, Humanitarian Overview, 2014' (Annual humanitarian overview, *UNOCHA*, March 2015) 6.

¹⁵¹ OHCHR, 'Report of the detailed findings of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1' (24 June 2015) UN DOC A/HRC/29/52.

¹⁵² OHCHR, 'Report of the detailed findings of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1' (24 June 2015) UN DOC A/HRC/29/52. para 188.

¹⁵³ OHCHR, 'Report of the detailed findings of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1' (24 June 2015) UN DOC A/HRC/29/52. para 201.

¹⁵⁴ OHCHR, 'Report of the detailed findings of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1' (24 June 2015) UN DOC A/HRC/29/52. para 193.

¹⁵⁵ OHCHR, 'Report of the detailed findings of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1' (24 June 2015) UN DOC A/HRC/29/52. para 223.

¹⁵⁶ OHCHR, 'Report of the detailed findings of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1' (24 June 2015) UN DOC A/HRC/29/52. para 312.

hostilities, and during the operation, over 500,000 people were internally displaced.¹⁵⁷ Israel also targeted hospitals, destroying one hospital and five primary care clinics, and damaging 15 hospitals and 51 clinics.¹⁵⁸

2.4.4. May 2021 Aggression

73. In May 2021, the fourth military operation against Gaza was launched by Israel. It lasted for 11 days, killing 260 Palestinians.¹⁵⁹ Some 15 Palestinian families lost at least three members of their family as a result of Israel's shelling of Gaza.¹⁶⁰ The ministry of health announced that 12 families were erased from the civil registry.¹⁶¹ Civilian infrastructure was also targeted during the aggression, damaging 5,000 housing units, as well as several water and sanitation facilities. In addition, nine hospitals and 19 healthcare clinics were damaged from the attacks. This damage added to the strain on Gaza's infrastructure and resulted in a decrease in the already limited clean water and sewage treatment.¹⁶²

¹⁵⁷ UNRWA, '2014 Gaza Conflict' (UNRWA) <<https://www.unrwa.org/2014-gaza-conflict#>> accessed 17 February 2024.

¹⁵⁸ OHCHR, 'Report of the detailed findings of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1' (24 June 2015) UN DOC A/HRC/29/52, para 591.

¹⁵⁹ UNOCHA, 'Occupied Palestinian Territory (oPt): Response to the escalation in the oPt' (Situation Report No. 1, UNOCHA, 27 May 2023) <<https://www.ochaopt.org/content/response-escalation-opt-situation-report-no-1-21-27-may-2021>> accessed 17 February 2024.

¹⁶⁰ Amira Hass, 'Gaza Lives Erased: Israel Is Wiping Out Entire Palestinian Families on Purpose' (*Haaretz*, 19 May 2021) <<https://www.haaretz.com/israel-news/2021-05-19/ty-article/gaza-israel-wiping-entire-palestinian-families-hamas/0000017f-eae3-d4cd-af7f-ebfbbb800000>> accessed 5 February 2024.

¹⁶¹ Amira Hass, 'Gaza Lives Erased: Israel Is Wiping Out Entire Palestinian Families on Purpose' (*Haaretz*, 19 May 2021) <<https://www.haaretz.com/israel-news/2021-05-19/ty-article/gaza-israel-wiping-entire-palestinian-families-hamas/0000017f-eae3-d4cd-af7f-ebfbbb800000>> accessed 5 February 2024..

¹⁶² UNOCHA, 'Occupied Palestinian Territory (oPt): Response to the escalation in the oPt' (Situation Report No. 1, UNOCHA, 27 May 2023) <<https://www.ochaopt.org/content/response-escalation-opt-situation-report-no-1-21-27-may-2021>> accessed 17 February 2024.

3. THE SITUATION IN GAZA SINCE OCTOBER 7, 2023

Israeli Bombardment

74. On October 7, 2023, Israel launched airstrikes on Gaza, in response to Palestinian armed groups operations within Israel's internationally recognized borders. The airstrikes resulted in extensive damage to civilian infrastructure, including homes, schools, hospitals, and cultural sites.
75. On 7 October, at around 8:20 pm, an air strike on a three-story residential building in Gaza City's al-Zeitoun neighbourhood claimed the lives of fifteen members of the al-Dos family, including seven children.¹⁶³ Airstrikes on October 10 in Gaza City's al-Sahaba Street¹⁶⁴ and in other residential areas such as Sheikh Radwan¹⁶⁵ and Deir al-Balah¹⁶⁶ led to more than 70 civilian deaths.
76. 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.¹⁶⁷ On 20 October, an Israeli strike killed 28 civilians, including 12 children, and

¹⁶³ 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.

¹⁶⁴ 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.

¹⁶⁵ 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.

¹⁶⁶ 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.

¹⁶⁷ 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.

caused extensive destruction to homes in the al-Nuseirat refugee camp.¹⁶⁸ Between October 31 and November 2, further Israeli airstrikes in the Jabalia refugee camp reportedly led to the deaths and injuries of hundreds of Palestinians.¹⁶⁹

77. Israeli airstrikes also targeted hospitals and healthcare facilities, including the Al Ahli Arab Hospital and Al-Shifa Hospital. As of March 3, 2024, records indicate at least 406 attacks on healthcare services, impacting over 99 health facilities and 104 ambulances.¹⁷⁰ These attacks have resulted in the deaths of at least 682 people and injuries to 901 others.¹⁷¹

78. Since the October 7 attacks, schools and universities have also been targeted by Israeli airstrikes, such as the United Nations Relief and Works Agency for Palestine Refugees in the Near East school in the Al-Maghazi refugee camp.¹⁷² On November 4, Israel launched an airstrike targeting another UN-run school in the Jabalia refugee camp.¹⁷³ Within 48 hours of this attack, at least three other schools accommodating displaced Palestinians

¹⁶⁸ Amnesty International, 'Israel/Opt: "Nowhere Safe in Gaza": Unlawful Israeli Strikes Illustrate Callous Disregard for Palestinian Lives' (*Amnesty International*, 20 November 2023)

<www.amnesty.org/en/latest/news/2023/11/israel-opt-nowhere-safe-in-gaza-unlawful-israeli-strikes-illustrate-callous-disregard-for-palestinian-lives/> accessed 17 February 2024.

¹⁶⁹ 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.

¹⁷⁰ WHO, 'Emergency Situation Update' Issue 24 (*WHO*, 3 March 2024) https://www.emro.who.int/images/stories/Sitrep_-_issue_24.pdf. Accessed 19 March 2024

¹⁷¹ WHO, 'Emergency Situation Update' Issue 24 (*WHO*, 3 March 2024) https://www.emro.who.int/images/stories/Sitrep_-_issue_24.pdf. Accessed 19 March 2024.

¹⁷² United Nations News, 'Israel-Gaza conflict: Deepening concern for civilians, as UN school is hit' (*United Nations News*, 17 October 2023) <<https://news.un.org/en/story/2023/10/1142432>> accessed 17 February 2024.

¹⁷³ Nidal Al-Mughrabi, Simon Lewis and Suleiman Al-Khalidi, 'Arab leaders press Blinken for Gaza ceasefire after school blasts' (*Reuters*, 4 November 2023) <www.reuters.com/world/middle-east/us-arab-leaders-meet-over-gaza-palestinian-deaths-mount-2023-11-03/> accessed 17 February 2024.

were subjected to airstrikes.¹⁷⁴ As of January 30, 386 schools in Gaza had been damaged.¹⁷⁵

79. Israel's airstrikes on Gaza have destroyed more than 100 cultural landmarks and historic sites, such as historic religious sites, museums, and archaeological sites, including the Omari Mosque; the Saint Porphyrius church, and the Ibn Uthman and Sayed Hashem Mosques.¹⁷⁶ The air strike that struck the Saint Porphyrius Greek Orthodox Church on October 19, where approximately 450 displaced members of Gaza's Christian community were sheltering, caused the death of 18 civilians, injuring at least 12 others.¹⁷⁷

80. Amid the bombing campaign, Gaza's only power plant was shut down.¹⁷⁸ On October 26, one of the few remaining network providers in Gaza ceased operations, with Netstream signals also experiencing a complete outage the next day.¹⁷⁹ That same day, 15 Internet

¹⁷⁴ OHCHR, 'Horrendous Gaza violence must stop' (*OHCHR*, 19 November 2023) <www.ohchr.org/en/press-releases/2023/11/horrendous-gaza-violence-must-stop> accessed 17 February 2024.

¹⁷⁵ 'Verification of damages to schools based on proximity to damaged sites - Gaza, Occupied Palestinian Territory' (Reliefweb 10 February 2024) <<https://reliefweb.int/report/occupied-palestinian-territory/verification-damages-schools-based-proximity-damaged-sites-gaza-occupied-palestinian-territory-10-february-2024#:~:text=As%20of%20the%20end%20of,and%20123%20with%20minor%20damages>> accessed 17 February 2024.

¹⁷⁶ 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.

¹⁷⁷ Amnesty International, 'Israel/Opt: "Nowhere Safe in Gaza": Unlawful Israeli Strikes Illustrate Callous Disregard for Palestinian Lives' (*Amnesty International*, 20 November 2023) <www.amnesty.org/en/latest/news/2023/11/israel-opt-nowhere-safe-in-gaza-unlawful-israeli-strikes-illustrate-callous-disregard-for-palestinian-lives/> accessed 17 February 2024.

¹⁷⁸ 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.

¹⁷⁹ 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.

Service Providers encountered near-complete outages, disrupting landline, cellular, and internet services.¹⁸⁰ As a result, the Palestine Red Crescent Society lost contact with its operations room in Gaza.¹⁸¹ This hindered its ability to provide emergency services, including assistance to victims of attacks.

Evacuation of Northern Gaza

81. Between October 9 and 10, Israel targeted the Rafah crossing at the Gaza-Egyptian border, blocking the flow of movement in and out of Gaza.¹⁸² Against the backdrop of ongoing airstrikes, Israeli forces issued a directive on October 12 for Palestinians in northern Gaza to relocate to the south within a 24-hour timeframe.¹⁸³ The Israeli Forces established a ‘safe’ window from 10 am to 4 pm on October 13 for refugees to evacuate via specified routes.¹⁸⁴ An explosion occurred at 5:30 pm along one of these routes, resulting in the loss of 70 lives.¹⁸⁵ On October 21, the Israeli army distributed leaflets in northern

¹⁸⁰ 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.

¹⁸¹ 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..

¹⁸² OHCHR, ‘Israel/occupied Palestinian territory: UN experts deplore attacks on civilians, call for truce and urge international community to address root causes of violence’ (*OHCHR*, 12 October 2023) <www.ohchr.org/en/press-releases/2023/10/israeloccupied-palestinian-territory-un-experts-deplore-attacks-civilian> accessed 17 February 2024.

¹⁸³ 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.

¹⁸⁴ 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.

¹⁸⁵ 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.

Gaza, compelling residents to evacuate immediately under the threat of being labelled as accomplices to terrorism if they chose not to relocate from the north of Gaza to the southern region.

Ground Invasion

82. Starting from October 27, the Israeli Forces initiated its ground invasion into Gaza. On the ground, the Israeli Forces has persistently adhered to its established policies, involving attacks on residential areas and hospitals. This is clearly illustrated by the raids in proximity to the al-Quds hospital following the issuance of an urgent evacuation warning on October 29.¹⁸⁶

83. We reiterate here that our current submission will not delve extensively into the acts constituting the actus reus of the crime of genocide. Such analysis will be deferred to our subsequent submission, where we will present compiled evidence and affidavits. In this document, our primary objective is to establish the residents of Gaza as a protected group under the Genocide Convention and to substantiate the presence of intent (mens rea) concerning Israeli actions in and against Gaza.

¹⁸⁶ 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.

4. THE PALESTINIAN PEOPLE OF GAZA AS A PROTECTED GROUP

4.1. Palestinians as a Whole as a Protected Group for the Purpose of the Rome Statute

84. The Rome Statute and the Genocide Convention have jurisdiction over the genocide of four protected groups: “national, ethnical, racial or religious”.¹⁸⁷ For the purposes of the crime of genocide as outlined in the Rome Statute and Genocide Convention, this section of the legal analysis aims to establish the qualification of Palestinians as a whole, throughout the geography of Historic Palestine including Palestinians in the oPt, Palestinian citizens of Israel and Palestinian refugees in the diaspora, as a protected ethnic/national group. It further examines the qualification of Palestinians in Gaza as a substantial part of the group.

85. The concept of a “national, ethnical, racial or religious group” has been extensively assessed in the ICTR and ICTY, yet no specific definition was provided for each group. The Tribunals left the assessment of whether the victims are a protected group up to the evaluation of the court on a case-by-case basis. In *Prosecutor v Akayesu (1998)*, an essential aspect, according to the Tribunal, was for the group to be stable and for membership in such groups to be normally unchallengeable by its members, who belong to it automatically by birth, in a continuous and often irremediable manner.¹⁸⁸ The ICTR Appeals Chamber in *Prosecutor v Kayishema, Ruzindan, and Rutaganda (2001)*, deemed that the determination of a protected group is subjective, not objective. This shift to a subjective approach was addressed by the Darfur Commission, which noted that this shift takes “into account that ‘collective’ identities, and in particular ethnicity, are by their very nature social constructs, ‘imagined’ identities entirely dependent on variable and

¹⁸⁷ Convention on the Prevention and Punishment of the Crime of Genocide (adopted 9 December 1948, entered into force 12 January 1951) 78 UNTS 277 art 2.

¹⁸⁸ *Prosecutor v Akayesu (Trial Judgement)* ICTR-96-4-T (2 September 1998) 511.

contingent perceptions, and not social facts, which are verifiable in the same manner as natural phenomena or physical facts”.¹⁸⁹

86. Furthermore, the ICJ in *Bosnia and Herzegovina v Yugoslavia (2007)* defined groups by their positive characteristics and not the absence thereof.¹⁹⁰ The ICTY has also affirmed this approach in *Prosecutor v Popovic (2010)*, where it found that a group is defined by “particular positive characteristics - national, ethnical, racial or religious - and not the lack of them”; it also found that “persons of a common national origin” fall under the protected characteristic.¹⁹¹
87. 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.
88. In *Prosecutor v Krstic (2001)*, the ICTY looked at the “socio-historic context” to identify the group’s cultural, religious, ethnic or national characteristics.¹⁹² Similarly, in *Prosecutor v Bagilishema (2001)*, the TC held that the concepts of national, ethnical, racial and religious groups “must be assessed in light of a particular political, social, historical and cultural context”.¹⁹³ A national group was defined in *Prosecutor v Akayesu (1998)* as “a collection of people who are perceived to share a legal bond based on common citizenship, coupled with reciprocity of rights and duties”.¹⁹⁴ Despite the clear definition in *Akayesu*, the Chamber in *Prosecutor v George Rutaganda (1999)* “noted that the

¹⁸⁹ International Commission of Inquiry on Darfur ‘Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General, Pursuant to Security Council Resolution 1564 of 18 September 2004’ (2005) Final Report, para 499.

¹⁹⁰ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)* (Merits) [2007] ICJ Rep 43, 193–197.

¹⁹¹ *Prosecutor v Popovic* (Judgement) IT-05-88-T (10 June 2010) 809.

¹⁹² *Prosecutor v. Radislav Krstic* (Judgement) IT-98-33-T (2 August 2001) 550-568.

¹⁹³ *Prosecutor v. Ignace Bagilishema* (Judgement) ICTR-95-1A-T (7 June 2001) 65.

¹⁹⁴ *Prosecutor v. Jean-Paul Akayesu* (Judgement) ICTR-96-4-T (2 September 1998) 511-524.

concept of national, ethnical, racial and religious groups have been researched extensively and concluded that, at present, there are no generally and internationally accepted precise definitions thereof. Each of these concepts must be assessed in the light of a particular, social and cultural context”¹⁹⁵ thus reverting the definition of the characteristics defining a group back to the subjective approach on a case-by-case basis.

89. The Chamber in *Prosecutor v Bagilishema (2001)* further analysed the question of a protected group and linked it to the mentality of the perpetrator by stating that “if a victim was perceived by a perpetrator as belonging to a protected group, the victim could be considered by the chamber as a member of the protected group, for the purposes of genocide”.¹⁹⁶

90. Palestinians in Historic Palestine and within the Diaspora all share a history of ethnic cleansing and an imminent threat of genocide since the Nakba began in 1948. While Palestinians in each state have different legal documentation, they all are politically recognised as Palestinians. This includes Palestinians in the oPt who have Palestinian legal documents, Palestinians registered as refugees inside and outside of Palestine with an internationally recognised right of return, Palestinian citizens of Israel who are recognised as a Palestinian/Arab ethnic minority in Israel, or Palestinians in east Jerusalem, who have no Israeli or Palestinian Authority passports and yet are considered 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 origin¹⁹⁷.

91. The stigmatisation of the group on the basis of national, ethnic, racial or religious characteristics by the perpetrators of the crime was also used by the Chamber as a criterion to identify the protected group.¹⁹⁸ The manner of stigmatisation was explored in

¹⁹⁵ *Prosecutor v. Georges Anderson Nderubumwe Rutaganda* (Judgement and Sentence) ICTR-96-3-T (6 December 1999) 56.

¹⁹⁶ *Prosecutor v. Ignace Bagilishema* (Judgement) ICTR-95-1A-T (7 June 2001) 65.

¹⁹⁷ Human Rights Watch ‘A Threshold Crossed’ See footnote 70.

¹⁹⁸ *Prosecutor v. Radislav Krstic* (Judgement) ICTY IT-98-33-T (2 August 2001) 550-568.

Prosecutor v Jelusic (1999), where it was found that it could be either positive or negative. A ‘positive approach’ consisted of the perpetrators distinguishing a group by the characteristics which they deem to be particular to the national, ethnical, racial or religious group.¹⁹⁹

92. The geographical location of a group is not an important factor in determining whether the group meets the criteria stated in the Convention. Thus, the fact that Palestinians are located in various geographical locations will not undermine the fact that they form a group with distinct national and ethnic characteristics. In fact, even the Palestinian citizens of Israel are considered as part of the Group because they have the distinctive characteristics that identify them as Palestinians. This was demonstrated in *Prosecutor v Krstic (2001)*, where the Trial Chamber found that there was no distinction between Bosnian Muslims residing in Srebrenica and other Bosnian Muslims except their geographical location: “the only distinctive criterion would be their geographical location, not a criterion contemplated by the Convention.” It also emphasised whether the members of the group viewed themselves as separate from the group in a different geographical location.²⁰⁰ Despite the fact that the Bosnian Muslims lived in the State committing the genocide, that did not remove them from being part of the group. Thus, Palestinian citizens of Israel, whose only distinguishing factor is their geographical location, are part of the protected group.

93. 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.

4.2 Palestinians in Gaza as a Substantial Part of the Protected Group for the Purposes of the Rome Statute

94. Palestinians are a protected group based on the criteria of the Rome Statute. The ICJ has also declared that Palestinians constitute a distinct group and are thus a protected group

¹⁹⁹ *Prosecutor v. Goran Jelusic (Judgement)* IT-95-10-T (14 December 1999) 71.

²⁰⁰ *Prosecutor v. Radislav Krstic (Judgement)* ICTY IT-98-33-T (2 August 2001) 559.

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.²⁰¹

95. However, in the current case, only Palestinians in Gaza are being directly targeted. The Convention expands its definition of what constitutes a genocide to include the intent to destroy, in whole or in part, a group. In order to determine whether the Palestinians in Gaza are subjected to genocide, it must be assessed whether they form a substantive part of the group.
96. In *Krstic*, the Appeals Chamber outlined a list of non-exhaustive considerations that help in assessing substantiality “when the targeted part is substantial enough to meet [the in part] requirement”.²⁰² This includes the numeric size of the targeted part of the group, the prominence of the targeted part of the group, and the area of the perpetrator’s activity and control, as well as the possible extent of their reach. Thus, the numeric size of the targeted part of the group is the starting point, “though not in all cases the ending point of the inquiry... [it] should be evaluated not only in absolute terms, but also in relation to the overall size of the entire group.”²⁰³
97. And as mentioned, “[i]n addition to the numeric size of the targeted portion, its prominence within the group can be a useful consideration. If a specific part of the group is emblematic of the overall group, or is essential to its survival, that may support a finding that the part qualifies as substantial within the meaning of Article 4”.²⁰⁴
98. The substantiality criteria does not require that the perpetrator intend to eliminate the whole group, as the intent to destroy formed by a perpetrator of genocide will always be limited by the opportunity presented to him.²⁰⁵ In reference to *Jelisic* and *Sikirica*, the Appeals Chamber held that “the substantiality requirement both captures genocide’s

²⁰¹ 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.

²⁰² *Prosecutor v. Radislav Krstic* (Appeal Judgment) IT-98-33-A (19 April 2004) [198].

²⁰³ *Prosecutor v. Radislav Krstic* (Appeal Judgment) IT-98-33-A (19 April 2004) [198].

²⁰⁴ *Prosecutor v. Radislav Krstic* (Appeal Judgment) IT-98-33-A (19 April 2004) [198].

²⁰⁵ *Prosecutor v. Radislav Krstic* (Appeal Judgment) IT-98-33-A (19 April 2004) 13.

defining character as a crime of massive proportions and reflects the Convention's concern with the impact the destruction of the targeted part will have on the overall survival of the group:²⁰⁶

99. In its assessment of what constitutes the destruction of part of a group, the Trial Chamber in *Krstic* held that the perpetrators of genocide do not need to intend to destroy the entire protected group, but they must view that part of the group as a distinct entity which must be eliminated as such²⁰⁷ ... “A campaign resulting in the killings, in different places spread over a broad geographical area, of a finite number of members of a protected group might not thus qualify as genocide, despite the high number of casualties, because it would not show an intent to target the very existence of the groups as such ... Conversely, killing of all members of the part of a group located within a small geographical area, although resulting in a lesser number of victims, would qualify as genocide if carried out with the intent to destroy the part of the group as such located in this small geographical area. Indeed, *the physical destruction may target only a part of the geographically limited part of the larger group because the perpetrators of the genocide regard the intended destruction as sufficient to annihilate the group as a distinct entity in the geographic area at issue*. In this regard, it is important to bear in mind the total context in which the physical destruction is carried out”.²⁰⁸

100. For example, in *Krstic*, the Bosnian Muslim population in Srebrenica, or the Bosnian Muslims of Eastern Bosnia, a group estimated to comprise about 40,000 people, met the substantial proportion definition. Although not numerically significant when compared to the overall Bosnian Muslim population, this group held a strategic location crucial to the survival of the Bosnian Muslim nation as a whole.²⁰⁹ Moreover, the Appeals Chamber considered the relevance of killing around 7,000 men to the Srebrenica Muslim

²⁰⁶ *Prosecutor v. Radislav Krstic* (Appeal Judgement) ICTY IT-98-33-A (19 April 2004) 8.

²⁰⁷ *Prosecutor v. Radislav Krstic* (Judgement) ICTY IT-98-33-T (2 August 2001) 8.

²⁰⁸ *Prosecutor v. Radislav Krstic* (Appeal Judgment) IT-98-33-A (19 April 2004) [590].

²⁰⁹ William Schabas, ‘Article 6’ in Triffterer/Ambos (eds) *The Rome Statute of the International Criminal Court: A Commentary*, 3rd edition, Verlag C H Beck, 2016; *Prosecutor v. Radislav Krstic* (Appeal Judgment) IT-98-33-A (19 April 2004) [15]-[16].

community. The Chamber explained that “[e]vidence introduced at trial supported this finding, by showing that, with the majority of the men killed officially listed as missing, their spouses are unable to remarry and, consequently, to have new children. The physical destruction of the men had severe procreative implications for the Srebrenica Muslim community, potentially leading to the extinction of that community.”²¹⁰

101. However, the ICJ stated that “[e]stablishing the ‘group’ requirement will not always depend on the substantiality requirement alone although it is an essential starting point. It follows in the Court’s opinion that the qualitative approach cannot stand alone.”²¹¹ In *Jelusic*, the Trial Chamber asserted that it might be possible to infer genocidal intent from the “desired destruction of a more limited number of persons selected for the impact that their disappearance would have upon the survival of the group as such.”²¹² Indeed, in *Tolimir*, the Trial Chamber concluded that the killing of three community leaders constituted genocide because it jeopardised the survival of the group as a whole.²¹³ A similar situation of relatively small-scale killings in concentration camps emerged in *Sikirica*.²¹⁴ However, the Trial Chamber could not identify any pattern in the camp killings that indicated the intent to destroy a ‘significant’ part of the local Muslim community to threaten its survival. The victims included taxi drivers, schoolteachers, lawyers, pilots, butchers, and cafe owners but not, apparently, community leaders.²¹⁵ The Trial Chamber noted that these individuals “do not appear to have been persons with any special significance to their community, except to the extent that some of them were of military age and could be called up for military service”.²¹⁶

²¹⁰ *Prosecutor v. Radislav Krstic* (Appeal Judgment) IT-98-33-A (19 April 2004) [28].

²¹¹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)* ICJ Judgement (26 February 2007) [200].

²¹² *Prosecutor v Goran Jelusic* (Trial Judgement) IT-95-10 (14 December 1999) [82].

²¹³ *Prosecutor v Zdravko Tolimir* (Trial Judgement) IT-05-88/2-T (12 December 2012).

²¹⁴ *Prosecutor v. Dusko Sikirica, Damir Dosen, Dragan Kolundzija* (Sentencing Judgement) ICTY IT-95-8-S (13 November 2001).

²¹⁵ William Schabas, ‘Article 6’ in Triffterer/Ambos (eds) *The Rome Statute of the International Criminal Court: A Commentary*, 3rd edition, Verlag C H Beck, 2016.

²¹⁶ *Prosecutor v. Dusko Sikirica, Damir Dosen, Dragan Kolundzija* (Sentencing Judgement) ICTY IT-95-8-S (13 November 2001) [80].

102. The population of Gaza consists of almost 2.3 million people, making up around 42% of the whole population of Palestinians currently living in the State of Palestine. Some 80% of the population in Gaza are refugees and their descendants from historic Palestine, who were expelled by Israel in 1948.
103. Palestinians in Gaza form a substantial part of the Palestinian group, both numerically and factually. Not only does Gaza's population constitute approximately 42% of the Palestinian population and is an integral part of the internationally recognised Palestinian territory, but Gaza is also a focal point of the Palestinian struggle and has significant political importance within the overall Palestinian political landscape. Gaza often draws international attention to the Palestinian cause. The humanitarian situations and conflicts in Gaza have become a symbol of the Palestinian struggle, with Gazans embodying the collective plight of the Palestinian people.
104. Over the years, Israel has viewed Gaza as a separate hostile entity that must be eliminated. Israel is currently focused on destroying and eliminating the Palestinian people of Gaza. The rest of Palestinian people are at an imminent threat of being eliminated.²¹⁷

²¹⁷ For instance, Bezalel Smotrich, a prominent ally of Prime Minister Netanyahu and serving as the finance minister and a minister in the Defense Ministry overseeing civilian affairs in the West Bank, openly advocated for the destruction of Huwara, a Palestinian town in the Nablus Governorate of the State of Palestine, calling for it "to be wiped out. State of Israel should do it," (*The Times of Israel*, 1 March 2023) <<https://www.timesofisrael.com/israel-should-wipe-out-palestinian-town-of-huwara-says-senior-minister-smotrich/>> accessed 15 March 2024.

Also, and after illegal settlers under the protection of the Israeli military carried out a brutal attack on the Palestinian village of Turmus Ayya in the central West Bank, murdering one Palestinian and wounding dozens of others, and burning 30 houses, 60 cars, and dozens of olive trees, Israel's security minister Itamar Ben-Gvir also called for a wider military operation and intensive illegal settlement campaign in the occupied West Bank, saying, "There needs to be full settlement here. Not just here but on all the hilltops around us... We have to settle the land of Israel and at the same time need to launch a military campaign, blow up buildings, assassinate terrorists. Not one, or two, but dozens, hundreds, or if needed, thousands... because, ultimately, it is the only way we will seize this

105. In addition to deliberately subjecting the entire population of the Gaza Strip to dire living conditions and systematically targeting civilians in the area in recent months, the incidents also reveal Israel's intent to target specific individuals and groups due to their impact on the survival of Gaza and the continuation of life in any form. Among those targeted were police officers,²¹⁸ academics and university lecturers,²¹⁹ and journalists.²²⁰ Additionally, there were attacks on aid convoys, health facilities, civilians seeking assistance, and humanitarian relief workers.²²¹ Professionals such as programmers,

place, strengthen our hold and restore security to the residents." (*The Jerusalem Post*, 23 June 2023) <<https://www.jpost.com/breaking-news/article-747424>> accessed 15 March 2024. He also referred to young settlers who torched a number of Palestinian villages as "sweet boys," during a meeting with Prime Minister Benjamin Netanyahu and other ministers and senior Israeli officials. (*The Jerusalem Post*, 27 June 2023) <<https://www.jpost.com/israel-news/article-747954>> accessed 15 March 2024. Exclusively in the West Bank, including East Jerusalem, and as per OCHA's data, between October 7, 2023, and March 18, 2024, 419 Palestinians were killed, with 408 deaths attributed to Israeli forces, nine to settlers, and two to either Israeli forces or settlers. Moreover, about 4,690 Palestinians, including 724 children, sustained injuries during this timeframe. Concurrently, around 300 houses were demolished, leading to the displacement of 1,640 Palestinians, with 57 percent of these displacements occurring since January 1, 2024. Within the same period, OCHA documented 650 Israeli settler attacks against Palestinians, resulting in casualties (59 incidents), property damage (518 incidents), or both casualties and property damage (73 incidents). (OCHA OPT, 18 March 2024) <<https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-141>> accessed 19 March 2024.

²¹⁸ Anadolu 'Several dead as Israeli airstrike targets Palestinian police vehicle in Rafah' (*Anadolu*, 10 February 2024) <<https://www.aa.com.tr/en/middle-east/several-dead-as-israeli-airstrike-targets-palestinian-police-vehicle-in-rafah/3133618>> accessed 17 March 2024

²¹⁹ Euro-Med Monitor 'Israel kills dozens of academics, destroys every university in the Gaza Strip' (*ReliefWeb*, 20 Jan 2024) <<https://reliefweb.int/report/occupied-palestinian-territory/israel-kills-dozens-academics-destroys-every-university-gaza-strip-enar>> accessed 17 March 2024

²²⁰ OHCHR 'Gaza: UN experts condemn killing and silencing of journalists' (OHCHR, 1 February 2024) <<https://www.ohchr.org/en/press-releases/2024/02/gaza-un-experts-condemn-killing-and-silencing-journalists>> accessed 17 March 2024

²²¹ WHO 'Nearly 600 attacks on healthcare in Gaza and West Bank since war began: WHO' (United Nations, 5 January 2024) <<https://news.un.org/en/story/2024/01/1145317>> accessed 17 March 2024; OHCHR 'Gaza: Israel's dehumanisation of displaced persons must end, says UN expert' (OHCHR, 6 March 2024)

information technology experts, and workers in computer engineering were also targeted, along with the destruction of their companies' headquarters.²²² Scientists and doctors were not spared either.²²³ Furthermore, entire families were killed, effectively wiping them out from civil records.²²⁴ Densely populated communities were targeted, and civilians in areas designated for evacuation, as well as in so-called "safe zones" unilaterally designated by Israeli forces in violation of international humanitarian law, faced indiscriminate attacks.²²⁵

<<https://www.ohchr.org/en/press-releases/2024/03/gaza-israels-dehumanisation-displaced-persons-must-end-says-un-expert>> accessed 17 March 2024

²²² Euro-Med Monitor 'Israel targets information technology experts as part of its genocide in Gaza' (*ReliefWeb*, 17 March 2024) <<https://reliefweb.int/report/occupied-palestinian-territory/israel-targets-information-technology-experts-part-its-genocide-gaza-enar>> accessed 18 March 2024

²²³ The New Arab 'Is Israel systematically targeting Gaza's scientists, scholars and doctors?' (*The New Arab*, 23 January 2024) <<https://www.newarab.com/features/israel-targets-scientific-and-literary-elite-gaza>> accessed 17 March 2024

²²⁴ Amnesty International 'Damning evidence of war crimes as Israeli attacks wipe out entire families in Gaza' (*Amnesty International*, 20 October 2024) <<https://www.amnesty.org/en/latest/news/2023/10/damning-evidence-of-war-crimes-as-israeli-attacks-wipe-out-entire-families-in-gaza/>> accessed 17 March 2024

²²⁵ OHCHR 'Israel working to expel civilian population of Gaza, UN expert warns' (OHCHR, 22 December 2023) <<https://www.ohchr.org/en/press-releases/2023/12/israel-working-expel-civilian-population-gaza-un-expert-warnst>> accessed 17 March 2024

5. MENS REA

106. The intent of this section of the submission is to focus on proving the intent of the crime of Genocide by members of the so-called ‘War cabinet’ of Israel. Evidence gathered by Law for Palestine includes the verbal statements of intent expressed by Israeli officials in command positions, the “de-civilianization”²²⁶ of Palestinian civilians in Gaza 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.
107. In the case of *Croatia v Serbia*, the ICJ said, “The Parties agree that the *dolus specialis* is to be sought, first, in the State’s policy, while at the same time accepting that such intent will seldom be expressly stated”.²²⁷ While the ICC is based on individual criminal responsibility, not state responsibility, we find the reference to the nature of stated expression of intent as ‘seldom’ to be pertinent. Decision-makers within the chain of command, with several well-educated legal advisors, are expected to know that their statements carry legal consequences and hence find ways to avoid them.
108. Utterances might also 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 *Stakić*, the Appeals Chamber stated that the implications of the accused’s utterances may be considered in combination with the remainder of the evidence, i.e., considering the *totality of evidence*²²⁸.

²²⁶ 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."

²²⁷ *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, General List No. 118 [2008] ICJ para 143
<<https://www.refworld.org/jurisprudence/caselaw/icj/2008/en/64179>> accessed 8 February 2024.

²²⁸ *Prosecutor v. Milomir Stakić* (No. IT-97-24-A, para. 53–56).

109. Furthermore, the ICJ has “accepted the possibility of genocidal intent being established indirectly by inference”.²²⁹ In this case, genocidal intent is plainly declared and may not need such an inference.²³⁰ However, the *mens rea* section goes into details with other inferred elements of genocidal intent.

110. That said, while we recognise that the inference of evidence in general, and circumstantial evidence in particular, for genocidal intent should be the ‘only reasonable inference’ from the evidence, we also recall the *Bashir* case before the ICC. In the *Bashir* case, as is clarified in further detail in Section 6.10 of this submission, the Appeals Chamber established that this high standard should only be used later on the trial stage, while in the early stages only the standard of ‘a reasonable basis’ should be employed.

²²⁹ *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, General List No. 118 [2008] ICJ para 148

<<https://www.refworld.org/jurisprudence/caselaw/icj/2008/en/64179>> accessed 8 February 2024 .

²³⁰ Such inference has been recognised by a number of UN, ICC and independent experts and committees, including: on 8 December 2023, 22 UNSRs and 28 members of United Nations Working Groups; OHCHR, ‘Gaza: UN experts call on international community to prevent genocide against the Palestinian people’ (OHCHR, 16 November 2023) <<https://www.ohchr.org/en/press-releases/2023/11/gaza-un-experts-call-international-community-prevent-genocide-against>> accessed 8 February 2024; On 1 December 2023: Al Jazeera, ‘Former ICC chief Prosecutor : Israel’s siege of Gaza is a ‘genocide’ (Al Jazeera, 1 December 2023) <<https://www.aljazeera.com/program/upfront/2023/12/1/former-icc-chief-Prosecutor-israels-siege-of-gaza-is-a-genocide>> accessed 8 February 2024 , On 9 December 2023 60 Genocide and Holocaust studies experts: Raz Segal, ‘Statement of Scholars in Holocaust and Genocide Studies on Mass Violence in Israel and Palestine since 7 October’ (Contending Modernities, 9 December 2023) <<https://contendingmodernities.nd.edu/global-currents/statement-of-scholars-7-october/>> accessed 8 February 2024; On 21 December 2023, the Committee on the Elimination of Racial Discrimination (CERD); on 9 November 2023 William Schabas, a world leading legal expert on genocide: ‘Declaration of William A. Schabas in Support of Plaintiffs’ Motion for Preliminary Injunction’ United States District Court for the Northern District of California (9 November 2023) <https://ccrjustice.org/sites/default/files/attach/2023/11/Schabas%20Declaration_w.pdf> accessed 8 February 2024; on 14 January 2024, Raz Segal and Penny Green, leading experts on genocide and holocaust studies: R Segal and P Green, ‘Intent in the genocide case against Israel is not hard to prove’ (Al Jazeera, 14 January 2024) <<https://www.aljazeera.com/opinions/2024/1/14/intent-in-the-genocide-case-against-israel-is-not-hard-to-prove>> accessed 8 February 2024

Totality of Culpable Acts as Evidence of Genocidal Intent

111. Tribunals have recognized that genocidal intent can be inferred from cumulative actions and words. In *Popović*, the Appeals Chamber agreed with the Trial Chamber that the genocidal intent can be inferred from factors “such as the general context, the perpetration of other culpable acts systematically directed against the same group, the scale of atrocities committed, the systematic targeting of victims on account of their membership of a particular group, or the repetition of destructive and discriminatory acts.”²³¹
112. The Chamber in *Karadžić* followed a totality of the evidence approach in concluding an intent to destroy.²³² In *Mladić*, the Trial Chamber observes that within a relatively short period of around three months, “Bosnian Muslims in Prijedor Municipality were the victims of a number of crimes constituting prohibited acts and other culpable acts including killings, causing serious bodily and mental harm, destruction of property, inhumane acts, and deportation, plunder and appropriation, as well as imposing restrictive and discriminatory measures.” “The prohibited acts were largely committed on a discriminatory basis against Bosnian Muslims and *in the context of a widespread and systematic attack directed against the civilian population.*”²³³
113. As such, this section examines not just Israeli statements concerning genocide, but also a variety of associated actions and policies that substantiate genocidal intent.

5.1 Statements Expressing Clear Genocidal Intent

114. To substantiate the existence of individual *mens rea* within Israel’s ‘war cabinet’,²³⁴ this submission will highlight just some of their many statements, but also Israeli collective discourse surrounding its military offensive against the Palestinian people.

²³¹ *Prosecutor v. Vujadin Popović and others* (Appeal Judgement) IT-05-88-T (30 January 2015) [823].

²³² *Prosecutor v. Rodovan Karadžić* (Trial Judgement) IT-95-5/18-T (24 March 2016).

²³³ *Prosecutor v. Ratko Mladić* (Trial Judgment) IT-09-92-T (22 November 2017)

²³⁴ The names of the accused members are to be stated in the final section.

115. The statements originating from key Israeli figures, including President Isaac Herzog, Prime Minister Benjamin Netanyahu, Members of the Knesset, and military personnel, interweave a narrative of intent marked by calls for the erasure, dehumanisation, and destruction of the Palestinian people. The significance of these words show a clear intent to commit genocide, blatantly apparent in their content, origin, and quantity. Furthermore, the general statements of intent from the wider Israeli public show the existence of a general consensus on this intent, that the Israeli political leadership has failed even to address, let alone prevent or punish incitement of genocide against Palestinians.

116. This intent has been recognised, and warned against, by several United Nations and independent bodies, committees, and experts, including a statement by United Nations Experts and Working Groups members on November 16, 2023 where they "expressed alarm over discernibly genocidal and dehumanising rhetoric coming from senior Israeli government officials, as well as some professional groups and public figures, calling for the "total destruction", and "erasure" of Gaza, the need to "finish them all" and force Palestinians from the West Bank and east Jerusalem into Jordan." They further warned that "Israel has demonstrated it has the military capacity to implement such criminal intentions."²³⁵

5.1.1 Israeli Prime Minister Benjamin Netanyahu

117. Israeli Prime Minister Benjamin Netanyahu has made it clear that he and his government intends to eradicate Palestinians within Gaza. Beginning on October 7, 2023, in a televised address, the Prime Minister warned that Israel's forces would "operate forcefully everywhere".²³⁶ On October 15, 2023, at a time when at least 2,670

²³⁵OHCHR, 'Gaza: UN experts call on international community to prevent genocide against the Palestinian people' (OHCHR, 16 November 2023) <<https://www.ohchr.org/en/press-releases/2023/11/gaza-un-experts-call-international-community-prevent-genocide-against>> accessed 8 February 2024.

²³⁶ Prime Minister of Israel, Video Address by Benjamin Netanyahu, (*Twitter*, 7 October 2023) <<https://twitter.com/IsraeliPM/status/1710769906373775373>> accessed 17 February 2024.

Palestinians had been killed in Gaza by Israeli airstrikes,²³⁷ the Prime Minister claimed that Israeli soldiers understood “the scope of the mission” and were “ready to take action at any time in order to defeat the bloodthirsty monsters who have risen against us to destroy [Israel].”²³⁸ Upon announcing the Israeli ground invasion of Gaza, on October 27, 2023, Netanyahu cited the Old Testament, calling Israelis to “remember what Amalek has done to you”,²³⁹ referring to the biblical commandment to smite and destroy the Amalekites,²⁴⁰ slaying both man and woman, infant and suckling. On November 11, 2023, the Prime Minister again incited genocide, stating that “it is necessary to make cultural changes in Gaza, such as in Japan and Germany following WWII”.²⁴¹

²³⁷ Total as of 17:45, 15 October 2023: UNICEF, ‘Immediate Needs Document in the State of Palestine (October – December 2023)’ (*UNICEF*, 17 October 2023) <<https://reliefweb.int/report/occupied-palestinian-territory/immediate-needs-document-state-palestine-october-december-2023>> accessed 8 February 2024.

²³⁸ Israel Prime Minister’s Office, ‘PM Netanyahu asks Ministers to Rise for a Moment of Silence’ (15 October 2023) <<https://www.gov.il/en/departments/news/spoke-start151023>> accessed 11 February 2024.

²³⁹ Middle East Monitor, ‘Netanyahu declares holy war against Gaza, citing the Bible’ (*Middle East Monitor*, 29 October 2023) <<https://www.middleeastmonitor.com/20231029-netanyahu-declares-holy-war-against-gaza-citing-the-bible/>> accessed 17 February 2024.; Chris McGreal, ‘US rights group sues Biden for alleged ‘failure to prevent genocide’ in Gaza’ (*The Guardian*, 13 November 2023) <<https://www.theguardian.com/us-news/2023/nov/13/biden-lawsuit-alleged-failure-prevent-genocide-israel-palestine>> accessed 17 February 2024.

²⁴⁰ *The Bible*, Authorised King James Version, Oxford UP, 1995, 1 Samuel 15:3. : “Now go and smite Amalek, and utterly destroy all that they have, and spare them not; but slay both man and woman, infant and suckling, ox and sheep, camel and ass”. Amalek was a nation described in the Hebrew Bible as a staunch enemy of the Israelites. The name “Amalek” can refer to the nation’s founder, a grandson of Esau; his descendants, the Amalekites; or the territories of Amalek, which they inhabited. In the Hebrew Bible, Amalek is both a nation and a nomadic tribe seen to be the arch-rival of ancient Israel. In Exodus, the Amalekites were said to have attacked the Israelite tribe as they escaped from Egypt. Even though Israel defeated the Amalekites, a divine curse was placed upon the descendants of Amalek. Here we note that the Amalek reference is explicitly genocidal. The Torah and interpretations from rabbis commanded the destruction of Amalek, including any descendants. Often Jewish extremists refer to Palestinians as their tribal descendants. It is important, however, not to view this reference to Amalek simply in the scholarly interpretations of biblical text, but rather the way Israeli leaders, army officers and general society understand and use them.

²⁴¹ R Triesman and S Inskeep, ‘Netanyahu says Gaza needs a new ‘civilian government,’ but won’t say who’ (*NPR*, 17 November 2023) <<https://www.npr.org/2023/11/17/1213684429/benjamin-netanyahu-israel-hamas-gaza>> accessed 17 February 2024.; NPR, ‘Transcript: Netanyahu says Gaza needs a new ‘civilian government,’ but won’t say who’ (*NPR*, 17 November 2023) <<https://www.npr.org/transcripts/1213684429#:~:text=We%20need%20a%20cultural%20chan%20ge.It%20has%20to%20teach%20it>> accessed 17 February 2024.

118. Netanyahu has openly advanced dehumanising rhetoric about Palestinians as inferior to Israelis, stating on October 25, 2023 that “[Israelis] are the people of the light, [Palestinians] are the people of darkness”.²⁴² On November 18, 2023, the Prime Minister openly called for the forced displacement of Palestinians and the complete occupation of Gaza, stating that there was no place for the Palestinian Authority to rule in Gaza.²⁴³ Again, in his Christmas message, the Prime Minister stated, “[w]e’re facing monsters [...] this is a battle not only of Israel against these barbarians, it’s a battle of civilization against barbarism”.²⁴⁴

119. Israeli Prime Minister Netanyahu said in a message on 5 December, that “this week we will light the first candle of Chanukah. Our soldiers will bring light to the darkness, in the alleyways of Gaza, in the ruins of Shuja'iyya, in the terrorist lairs in Khan Yunis. The lights together, as a great light, will cleave the darkness”.²⁴⁵

120. As previously indicated, it is critical to note here that extremist ideologies have been noted by several tribunals, including the ICC, to indicate the existence of criminal intent. As clarified in further detail earlier in this Submission's Section 2 on Historical Context, the ICTR in *Prosecutor v Nahimana et al*,²⁴⁶ the ICTY in *Prosecutor v Radovan Karadžić*, and the ICC in *Prosecutor v Dominic Ongwen* referred to this. In *Prosecutor v Radovan Karadžić*, who was charged with genocide, the Tribunal considered evidence

²⁴² Disclose.tv (2023) *Now - netanyahu: 'we are the people of the light, they are the people of darkness... we shall realise the prophecy of isaiah.'* Pic.twitter.com/ge1mle7iez, Twitter. Available at: <https://twitter.com/disclosetv/status/1717232829766009086?s=20> (Accessed: 18 March 2024).

²⁴³ Itamar Eichner, 'נתניהו, בצל הכנסת הדלק: "הדפנו לחצים מהעולם, צריך כיפת ברזל מדינית"' Translation: 'Netanyahu, in the shadow of the introduction of fuel: "We fended off pressures from the world, we need a political iron dome"' (*Ynet*, 18 November 2023)

<https://www.ynet.co.il/news/article/hksy6ui4p?utm_source=ynet.app.ios&utm_term=hksy6u%20i4p&utm_campaign=general_share&utm_medium=social&utm_content=Header> accessed 17 February 2024.

²⁴⁴ Israel Ministry of Foreign Affairs, 'Christmas message from PM Netanyahu' (*gov.il*, 24 December 2023) <<https://www.gov.il/en/departments/news/christmas-message-from-pm-netanyahu-24-dec-2023>> accessed 17 February 2024.

²⁴⁵ Prime Minister's Office, 'Statement by PM Netanyahu' (*gov.il*, 5 December 2023) Updated 6 December 2023 <<https://www.gov.il/en/departments/news/event-press051223>> accessed 14 February 2024.

²⁴⁶ *Prosecutor v Nahimana, Barayagwiza, and Ngeze*, (Judgment) ICTR Case No. ICTR-99-52-T (3 November 2003).

of Karadžić's nationalist ideology, as well as his speeches and statements promoting ethnic supremacy and hatred towards Bosniak and Croat populations, to establish his intent to commit genocide and other crimes against non-Serb populations during the Bosnian War.²⁴⁷

121. In the ICC case of *Prosecutor v Dominic Ongwen*, where Dominic Ongwen, a former commander in the Lord's Resistance Army (LRA) in Uganda, was charged with crimes against humanity and war crimes, evidence was presented regarding the LRA's ideological framework, including its leader Joseph Kony's messianic ideology and the group's use of religious rhetoric to justify its actions. The prosecution argued that Ongwen's participation in the LRA's activities, including attacks on civilian populations, was influenced by the group's extremist ideology, contributing to his criminal intent.²⁴⁸ Such a reference to ideology when establishing criminal intent appeared in the sixth report of Karim A. A. Khan, the then Special Advisor and Head of the United Nations Investigative Team to Promote Accountability for Crimes Committed by Daesh/ISIL in Iraq and Levant (UNITAD). The report clearly referred to "information on ideological doctrine" of ISIL, which affected their policies towards Shia Muslims, among others.²⁴⁹

5.1.2 Israeli President Isaac Herzog

122. On October 13, the Israeli president, Isaac Herzog, stated that there was no differentiating between militants and civilians in Gaza, saying “[t]here is an entire nation out there that is responsible. It’s not true this rhetoric about civilians not aware, not involved. It’s absolutely not true. [...] and we will fight until we break their backbone”.²⁵⁰

²⁴⁷ *Prosecutor v Karadžić*, (Judgment) ICTR Case No. IT-95-5/18-T (24 March 2016) .

²⁴⁸ *Prosecutor v Ongwen*, (Judgment) ICC Case No. ICC-02/04-01/15, (4 February 2021).

²⁴⁹ UNITAD, ‘Sixth Report of the Special Advisor and Head of UN Investigative Team to Promote Accountability for Crimes Committed by Daesh/ISIL in Iraq and Levant’ (3 May 2021) UN DocS/2021/419, para 16 & 19
<<https://documents.un.org/doc/undoc/gen/n21/104/70/pdf/n2110470.pdf?token=JWItVGQiKFbWFNoGSx&fe=true>> accessed 17 February 2024.

²⁵⁰ Rageh Omaar, ‘Israeli president Isaac Herzog says Gazans could have risen up to fight ‘evil’ Hamas’s (ITV, 13 October 2023) <<https://www.itv.com/news/2023-10-13/israeli-president-says-gazans-could-have-risen-up-to-fight-hamas>> accessed 17 February 2024.

On October 15, 2023, President Herzog utilised dehumanising language, declaring Israel's actions as of inherent good against evil, that Israel "must uproot with no mercy. [...] We will uproot evil so that there will be good for the entire region and the world".²⁵¹

123. Furthermore, Israeli President Herzog expressed a white supremacist position explicitly in an interview on MSNBC on December 5:²⁵² "This war is a war that is not only between Israel and Hamas," he said in response to a question about the high level of killing of Palestinians in Israel's attack on Gaza - this is already significant: an admission that the attack is not only against Hamas - "It's a war," he continued, "that is intended, really, truly, to save western civilization. ... We are attacked by [a] Jihadist network, an empire of evil. ... and this empire wants to conquer the entire Middle East, and if it weren't for us, Europe would be next, and the United States follows."

124. Herzog here builds on Israeli Prime Minister Benjamin Netanyahu's infamous association in late October and early November of Israel's attack on Gaza with the Biblical story of Amalek.²⁵³ This is a story of the Israelites completely destroying a people perceived as a whole as an enemy, as the ultimate evil, but Herzog places it on a modern scale as the last stand against global apocalypse and the demise of "western civilization."

125. Herzog thus expressed a colonial rationalisation of destruction of a people under colonial occupation, but here taken to the extreme, couched within a discourse of religious war that points to the Jewish supremacy at the heart of white supremacy; in this case, of

²⁵¹ Isaac Herzog, Interview with CNN, (*Twitter*, 15 October 2023)

<https://twitter.com/Isaac_Herzog/status/1713661051986678189> accessed 17 February 2024.; Ministry of Foreign Affairs, 'President Herzog reveals Hamas "Captive Taking Handbook" in CNN interview' (*gov.il*, 15 October 2023) <<https://www.gov.il/en/departments/news/president-herzog-reveals-hamas-captive-taking-handbook-15-oct-2023>> accessed 17 February 2024.

²⁵² Ana Cabrera and Isaac Herzog, 'Israeli president: War against Hamas intended to 'save the values of Western civilization' (*MSNBC*, 5 December 2023) <<https://www.msnbc.com/ana-cabrera-reports/watch/israeli-president-herzog-discusses-latest-in-war-against-hamas-199411269896>> accessed 14 February 2024.

²⁵³ Noah Lanard, 'The Dangerous History Behind Netanyahu's Amalek Rhetoric' (*Mother Jones*, 3 November 2023) <<https://www.motherjones.com/politics/2023/11/benjamin-netanyahu-amalek-israel-palestine-gaza-saul-samuel-old-testament/>> accessed 14 February 2024.

settler colonialism. Israeli leaders with command authority have used such religious discourse from the very beginning of their assault on Gaza, including numerous references to a struggle against “evil” or Gaza as a “city of evil,” as Netanyahu said already on October 7, and a war of “the people of light” against “the people of darkness,” as Netanyahu explained on October 25 and in various other speeches in the last few months.

5.1.3 Israeli Minister of Defense Yoav Gallant

126. In the beginning of Israel’s military offensive on Gaza, on October 9, 2023, Yoav Gallant, the Israeli Minister of Defense, declared that Israel was “imposing a complete siege on Gaza. No electricity, no food, no fuel. Everything is closed”.²⁵⁴ He continued by using dehumanising rhetoric, stating, “[w]e are fighting human animals and we are acting accordingly”.²⁵⁵ He then, on October 10, 2023, incited indiscriminate violence in his declaration to Israeli troops that he had “released all restraints” and declared that “[Israel] will eliminate everything. If it doesn't take one day, it will take a week. It will take weeks or even months, we will reach all places. Gaza won’t return to what it was before”.²⁵⁶

²⁵⁴ Yoav Gallant, "אנחנו נלחמים בחיות אדם- ואנחנו נוהגים בהתאם. אנחנו מטילים מצור על העיר עזה" - שר הביטחון, יואב גלנט", Translation: "We are fighting human animals - and we act accordingly. We are laying siege to Gaza City" - Minister of Defense, Yoav Galant', (ערוץ כנסת, *Youtube*) 9 October 2023 <www.youtube.com/watch?v=1nxvS9VY-to> accessed 18 February 2024.; Translation in: Emanuel Fabian, 'Defense minister announces 'complete siege' of Gaza: No power, food or fuel', (*The Times of Israel*, 9 October 2023). <https://www.timesofisrael.com/liveblog_entry/defense-minister-announces-complete-siege-of-gaza-no-power-food-or-fuel/> accessed 18 February 2024.

²⁵⁵ Yoav Gallant, "אנחנו נלחמים בחיות אדם- ואנחנו נוהגים בהתאם. אנחנו מטילים מצור על העיר עזה" - שר הביטחון, יואב גלנט", Translation: "We are fighting human animals - and we act accordingly. We are laying siege to Gaza City" - Minister of Defense, Yoav Galant', (ערוץ כנסת, *Youtube*) 9 October 2023 <www.youtube.com/watch?v=1nxvS9VY-to> accessed 18 February 2024.; Translation in: Emanuel Fabian, 'Defense minister announces 'complete siege' of Gaza: No power, food or fuel', (*The Times of Israel*, 9 October 2023). <https://www.timesofisrael.com/liveblog_entry/defense-minister-announces-complete-siege-of-gaza-no-power-food-or-fuel/> accessed 18 February 2024.

²⁵⁶ Yoav Gallant, 'Correct: Israeli Defense Minister Warns Hamas 'Will Regret' Deadly Attacks' (Bloomberg Quicktake, *Youtube*) 22 January 2024 <<https://www.youtube.com/watch?v=lzVCt8Vn7xY>> accessed 18 February 2024.

127. On November 18, 2023, after Israel had ordered millions of Palestinians from the north of Gaza to the 'safe zone'²⁵⁷ in the south within a 24-hour period, displacing millions of civilians from their homes, Gallant made it clear that the Israeli military would not be targeting discriminately in its military offences, but instead would target the entirety of Gaza as a collective punishment: "Soon they'll realise the IDF's power, even in the southern part [of Gaza]. [...] Those who were on the western side of Gaza City understand this well and have already met the deadly power of the IDF, those who are on the eastern side understand this tonight and will understand it in the coming days, and those who are in the south of Gaza will also understand this soon".²⁵⁸

5.1.4 Israeli War Cabinet Minister Benny Gantz

128. On November 29, 2023, Benny Gantz, a Knesset member and a part of Israel's war cabinet, declared that escape or safety would not be granted to Palestinians, stating in a video interview that "[t]he fighting will continue to and expand to any place necessary in Gaza. There will be no sanctuary cities".²⁵⁹

129. It is noteworthy that Gantz has a record of such statements. In January 2019, Benny Gantz released a series of videos to boost his electoral campaign to become Israel's Prime Minister. In one of them he stated that "only the strong survive" in an attempt to highlight his army's operations in Gaza during his time as chief of staff in 2014. One of those videos takes credit for the destruction made by his army in the 2014 Gaza war under his command, bragging that "parts of Gaza were sent back to the Stone Age." The fact Gantz

²⁵⁷ The false and misleading claim of 'safe zones' shall be dealt with in detail later on in this submission.

²⁵⁸ Itamar Eichner, 'נתניהו, בצל הכנסת הדלק: "הדפנו לחצים מהעולם, צריך כיפת ברזל מדינית"' Translation: 'Netanyahu, in the shadow of the introduction of fuel: "We fended off pressures from the world, we need a political iron dome"' (Ynet, 18 November 2023)

<https://www.ynet.co.il/news/article/hksy6ui4p?utm_source=ynet.app.ios&utm_term=hksy6u%20i4p&utm_campaign=general_share&utm_medium=social&utm_content=Header> accessed 17 February 2024.

²⁵⁹ Benny Gantz, 'Israeli Minister Benny Gantz Vows to Expand Operations in Gaza Strip Until Safety for Towns Ensured' (@RepublicWorld, *Youtube*) 30 November 2023

<<https://www.youtube.com/shorts/kvwfSemJzsw>> accessed 18 February 2024.

thought that such statements would boost his electoral chances is something that, in itself, should be taken note of by the Court.²⁶⁰

5.1.5 Israeli Minister for National Security Itamar Ben-Gvir

130. On 25 October 2023, Israeli Minister for National Security, Itamar Ben-Gvir, stated that “the only thing that needs to enter Gaza is hundreds of tons of explosives,” and that unless Hamas releases the hostages it is holding, “not an ounce of humanitarian aid” would enter Gaza.²⁶¹ On November 10, 2023, Ben-Gvir explained Israel’s position regarding targeting civilians: “when we say that Hamas should be destroyed, it also means those who celebrate, those who support [...] they’re all terrorists, and they should also be destroyed.”²⁶² Two days later, on November 12, 2023, Ben-Gvir, called for the forced displacement of Palestinians and a resettlement of Gaza, stating that “Israel need[s] to be in full control.”²⁶³ In a televised interview on 26 December 2023, Ben-Gvir stated “I want the possibility to behead head after head, head after head of the Nukhba”.²⁶⁴ Regarding Israel's relocation of about seventy orphans from Gaza to the West Bank, Ben-Gvir rejected the action, asserting that in warfare, defeating the enemy is paramount over concerns for appearances.²⁶⁵

²⁶⁰ Raoul Wootliff, ‘Parts of Gaza sent back to Stone Age’: Gantz videos laud his IDF bona fides’ (*The Times of Israel*, 20 January 2019) <<https://www.timesofisrael.com/only-the-strong-survive-gantz-s-new-campaign-videos-laud-his-IDF-bona-fides/>> accessed 11 February 2024.

²⁶¹ Yehuda Shaul, Screenshot from Itamar Ben-Gvir, (*Twitter*, 25 October 2023)

<<https://twitter.com/YehudaShaul/status/1717219201096499426>> accessed 18 February 2024.

²⁶² Quds News Network, Video and Translation of Itamar Ben-Gvir, (*Twitter*, 12 November 2023)

<<https://twitter.com/QudsNen/status/1723784790682358189>> accessed 18 February 2024.

²⁶³ Ariella Marsden, ‘Israel’s gov’t split on who should control Gaza after war’ (*The Jerusalem Post*, 12 November 2023) <<https://www.jpost.com/israel-news/politics-and-diplomacy/article-772928>> accessed 18 February 2024;

(2023) *Twitter*. Available at:

<https://twitter.com/YehudaShaul/status/1739641272350962084> (Accessed: 18 March 2024).

²⁶⁴ Yehuda Shaul, Video and Translation of Itamar Ben-Gvir, (*Twitter*, 26 December 2023)

<<https://twitter.com/YehudaShaul/status/1739641250611937632>> accessed 18 February 2024.

²⁶⁵ “חדשות כיכר השבת” מרחמים על אכזרים | ישראל העבירה יתומים מעזה ליו"ש”

<<https://www.kikar.co.il/israel-news/sa6vyk>> accessed 16 March 2024.

5.1.6 Israeli Minister of Energy and Infrastructure Israel Katz

131. On October 12, 2023, Israeli Minister of Energy and Infrastructure, Israel Katz, ‘tweeted’ that “No electrical switch will be turned on, no water hydrant will be opened and no fuel truck will enter until the Israeli abductees are returned home”,²⁶⁶ clarifying the next day that “[a]ll the civilian population in Gaza is ordered to leave immediately. We will win. They will not receive a drop of water or a single battery until they leave the world”.²⁶⁷

5.1.7 Israeli Minister of Finance Bezalel Smotrich

132. On 9 October 2023, in the beginning of Israel’s military assault on Gaza, Israeli Minister of Finance, Bezalel Smotrich, stated on camera that “[t]he unequivocal goal of the war we are in the midst of is [...] the complete dismantling of [military and] civilian capabilities”.²⁶⁸ Smotrich has made several statements in support of the forced displacement of Palestinians²⁶⁹ and has used racist language in stating “I don’t see a big difference between Hamas and the Palestinian Authority. The Arabs are the same Arabs”.²⁷⁰ Regarding Israel's relocation of about seventy orphans from Gaza to the West

²⁶⁶ Israel Katz, ‘אף מתג חשמל לא יורם’ Translation: ‘No electrical switch will be turned on [...]’, (*Twitter*, 12 October 2023) <https://twitter.com/Israel_katz/status/1712356130377113904> accessed 18 February 2024.

²⁶⁷ Israel Katz, ‘They will not receive a drop of water [...]’ (*Twitter*, 13 October 2023) <https://twitter.com/Israel_katz/status/1712876230762967222> accessed 18 February 2024.

²⁶⁸ Database of Israeli Incitement to Genocide on Legislators (2024), Law for Palestine para.15. <https://law4palestine.org/wp-content/uploads/2024/01/2-Database-of-Israeli-Incitement-to-Genocide-15th-January-2024-LEGISLATORS.pdf>; <https://www.reuters.com/world/middle-east/israeli-minister-calls-voluntary-emigration-gazans-2023-11-14/>

²⁶⁹ The New Arab Staff, ‘Israel’s Smotrich repeats call for displacement of Gazans after war’ (*The New Arab*, 31 December 2023) <<https://www.newarab.com/news/israels-smotrich-repeats-call-displacement-gazans>> accessed 18 February 2024.; S Sokol and J Magid, ‘Smotrich doubles down on resettlement of Gazans, rejecting US criticism’ (*The Times of Israel*, 3 January 2024) <<https://www.timesofisrael.com/smotrich-doubles-down-on-resettlement-of-gazans-rejecting-us-criticism/>> accessed 18 February 2024.; Euro-Med Monitor, ‘Israel intensifies its forced displacement campaign in Gaza, targets shelter centres housing refugees’ (*reliefweb*, 3 January 2024) <<https://reliefweb.int/report/occupied-palestinian-territory/israel-intensifies-its-forced-displacement-campaign-gaza-targets-shelter-centres-housing-refugees-enar>> accessed 18 February 2024.

²⁷⁰ @BenzionSanders, Quote from Bezalel Smotrich, (*Twitter*, 4 November 2023) <<https://twitter.com/BenzionSanders/status/1720899287695929411>> accessed 18 February 2024.

Bank, Smotrich sought clarifications from the Prime Minister. He characterized this action as “immoral,” suggesting that it is akin to showing mercy to the cruel.²⁷¹

5.1.8 Israeli Minister of Heritage Amichai Eliyahu

133. On November 1, 2023, Amichai Eliyahu, the Israeli Minister of Heritage, shared on Facebook: "The northern part of Gaza, more beautiful than ever. Everything is blown up and flattened, simply a pleasure for the eyes ... We must talk about the day after. In my mind, we will hand over lots to all those who fought for Gaza over the years and to those evicted from Gush Katif".²⁷² Subsequently, he opposed humanitarian aid, likening Palestinians to Nazis,²⁷³ and asserted that "there is no such thing as uninvolved civilians in Gaza." On November 5, 2023, Eliyahu made a shocking incitement to violence, suggesting that "[o]ne of the options is to drop an atomic bomb on Gaza".²⁷⁴

134. While some Israeli decision-makers were quick to criticise his call for the atomic bomb, this criticism was not on a moral or legal basis, but rather on the basis that such statements would harm Israel's image worldwide.²⁷⁵ Furthermore, it is noteworthy that

²⁷¹ @bezaleism Bezael Smotrich, (*Twitter*, 11 March 2024)

<<https://twitter.com/bezaleism/status/1767205462917726571>> accessed 17 March 2024.

²⁷² Amichai Eliyahu, 'יפה מתמיד, יפה הרצועה, [...] צפון הרצועה, יפה מתמיד' Translation: "The north of Gaza, more beautiful than ever [...]" (*Facebook*, 1 November 2023), <<https://www.facebook.com/eliyau.a/videos/148918588283326/>> accessed 18 February 2024.

²⁷³ Database of Israeli Incitement to Genocide on Legislators (2024), Law for Palestine para 24. <https://law4palestine.org/wp-content/uploads/2024/01/2-Database-of-Israeli-Incitement-to-Genocide-15th-January-2024-LEGISLATORS.pdf>; <https://twitter.com/YehudaShaul/status/1717219198605168707>

²⁷⁴ Yehuda Shaul, Quote and Translation of Amichai Eliyahu, (*Twitter*, 11 November 2023) <<https://twitter.com/YehudaShaul/status/1723375984160772550>> accessed 18 February 2024.; TRT World, 'Israeli minister says dropping 'nuclear bomb' on Gaza is an 'option'' (*TRT World*, November 2023) <<https://www.trtworld.com/middle-east/israeli-minister-says-dropping-nuclear-bomb-on-gaza-is-an-option-15694716>> accessed 18 February 2024.

²⁷⁵ See Israeli Minister of Education's comment clearly indicating Israel's image: Law for Palestine (quoting @sbyifat), Israeli Minister of Education response to atomic bomb comment (*Twitter*, 8 November 2023) <https://twitter.com/law4palestine/status/1722294977332494799?s=46&t=JaT3Sau_w01LZ8_9xYILA> accessed 15 February 2024.; War cabinet member Benny Gantz sent a message with a very similar meaning: Michael Bachner and TOI Staff, 'Far-right minister says nuking Gaza an option, PM suspends him from cabinet meetings' *The Times of Israel* (Jerusalem, 5 November 2023) <<https://www.timesofisrael.com/far-right-minister-says-nuking-gaza-an-option-pm-suspends-him-from-cabinet-meetings/>> accessed 11

Minister Eliyahu, after his genocidal call, remained in his position and was not questioned by the Knesset.

5.1.9 Israeli Minister of Agriculture Avi Dichter

135. On November 11, 2023, Israeli Minister of Agriculture, Avi Dichter, incited genocide in a television interview. When asked about surrendered civilians carrying white flags and whether they would be able to return to their homes after the war, Dichter responded with "we are now doing Nakba 2023".²⁷⁶

5.1.10 Deputy Speaker of the Knesset and Member of the Foreign Affairs and Security Committee Nissim Vaturi

136. On October 7, 2023, Nissim Vaturi, Deputy Speaker of the Knesset and Member of the Foreign Affairs and Security Committee, said in a tweet on Twitter/X, "Now we all have one common goal - erasing Gaza from the face of the earth".²⁷⁷ A few days later, on October 10, Vaturi once again 'tweeted', "Erase Gaza. Nothing else will satisfy us. It is not acceptable that we maintain a terrorist authority next to Israel. [...] Do not leave a child there, expel all the remaining ones at the end, so that they will not have a resurrection".²⁷⁸ Once again, Vaturi threatened on Twitter/X, on October 19, "Nakba? Expel them all. If

February 2024., and Israel's opposition leader Yair Lapid spoke of the feelings of Israelis held in Gaza as well as "war objectives": Law for Palestine (quoting @yairlapid), Opposition leader response to atomic bomb comment (*Twitter*, 8 November 2023)

<https://twitter.com/law4palestine/status/1722294981086347739?s=46&t=JaT3Sau_w01LZ8_9xY1LA> accessed 15 February 2024.

²⁷⁶ Haaretz, 'אנחנו עושים את נכבת עזה' Translation: 'Dichter: We are doing a Gazan Nakba 2023' (*Haaretz*, 11 November 2023) <<https://twitter.com/haaretz/status/1723410034762358955?s=46&t=4ht-goRLkBJm1v634ZjRhQ>> accessed 18 February 2024.

²⁷⁷ Nissim Vaturi, 'מחיקת רצועת עזה מעל פני האדמה' Translation: '[...] erasing Gaza from the face of the earth' (*Twitter*, 7 October 2023) <<https://twitter.com/nissimv/status/1710694866009596169>> accessed 18 February 2024. Translation in: Mohsen al Attar, 'Public Statement: Scholars Warn of Potential Genocide in Gaza', (*Opinio Juris*, 18 October 2023) <<https://opiniojuris.org/2023/10/18/public-statement-scholars-warn-of-potential-genocide-in-gaza/>> accessed 18 February 2024.

²⁷⁸ Nissim Vaturi, 'למחוק את עזה' Translation 'Erase Gaza' (*Twitter*, 9 October 2023) <<https://twitter.com/nissimv/status/1711261388809568458>> accessed 18 February 2024.

the Egyptians care so much for them — they are welcome to have them wrapped in cellophane tied with a green ribbon”.²⁷⁹ After ‘tweeting’ on October 20 to “Burn Gaza”,²⁸⁰ Vaturi repeated this sentiment in a television interview, stating, “We have to be really aggressive, [...] we need to say, ‘burn Gaza’ to encourage ourselves with what we’re doing”.²⁸¹

5.1.11 Israeli Minister of Education Yoav Kisch

137. On October 9, 2023, Israeli Minister of Education Yoav Kisch, appeared on the Israel's Channel 14 programme, *The Patriots*, and spoke about Israel's military response to Hamas's October 7 attack:

“This [attack] is not enough, there should be more, there should be no limits to the response. I said it a million times, until we see hundreds of thousands fleeing Gaza, we, the IDF, has not achieved its mission. [...] I also do not want [the Israeli Forces] to get inside [Gaza] before crushing everything, I'd rather the falling of fifty buildings than one more casualty to our forces. Every Jew knows the saying 'Remember what Amalek did unto thee by the way [...] and that is what Hamas did and their judgement shall be to destroy them, full stop. I relate to them like Amalek’”.²⁸²

²⁷⁹ Yehuda Shaul, Screenshot and translation of post by Nissim Vaturi, (*Twitter*, 25 October 2023) <<https://twitter.com/YehudaShaul/status/1717219172281631058?s=20>> accessed 18 February 2024.

²⁸⁰ Yehuda Shaul, Screenshot and translation of post by Nissim Vaturi, (*Twitter*, 26 December 2023) <<https://twitter.com/YehudaShaul/status/1739641252574810484>> accessed 18 February 2024.

²⁸¹ ערוץ כנסת Translation: Knesset Channel, Video discussion with Nissim Vaturi, (*Twitter*, 26 November 2023) <<https://twitter.com/KnessetT/status/1728763548162023455>> accessed 18 February 2024.

²⁸² Database of Israeli Incitement to Genocide on Legislators (2024), Law for Palestine para.4. <https://law4palestine.org/wp-content/uploads/2024/01/2-Database-of-Israeli-Incitement-to-Genocide-15th-January-2024-LEGISLATORS.pdf>; https://www.youtube.com/playlist?list=PL8E54R76rowCcCO_n_HQf36o1RF3_oD3z4

5.1.12 Israeli Knesset Members

138. On October 8, Knesset member Ariel Kallner ‘tweeted’, “Right now, one goal: Nakba! A Nakba that will overshadow the Nakba of 48. A Nakba in Gaza and a Nakba to anyone who dares to join”!²⁸³ A few days later, on October 17, Knesset member Revital Gottlieb ‘tweeted’, “[a] leadership that has mercy on monsters who massacred us is not worthy of leadership. A ceasefire for several hours is surrender, it is weakness, humiliation [...] without crushing Hamas and razing Gaza, we will not have the right to exist”.²⁸⁴ On November 1, Knesset member Galit Distel Atbaryan ‘tweeted’, "Erase all of Gaza from the face of the earth. That the Gazan monsters will fly to the southern fence and try to enter Egyptian territory or they will die. And their death will be evil. Gaza should be erased. [...] A vengeful and cruel IDF is needed here”.²⁸⁵ That same day, Knesset member Ketzi Shitrit appeared on *The Patriots* and stated, “you can’t eliminate an idea, so there is no choice but to eliminate, destroy everything around it, it’s not about just eliminating Hamas [...] it’s the termination of Gaza as a whole [...]”.²⁸⁶

5.1.13 Head of Coordinator of Government Activities in the Territories (“COGAT”) Major General Ghassan Alian

139. On 9 October 2023, Major General Ghassan Alian, Head of COGAT, issued a video statement directed at Hamas and the residents of Gaza. The statement was published on COGAT's official channel, where he warned, "Hamas became ISIS and the citizens of Gaza are celebrating instead of being horrified. Human animals are dealt with

²⁸³ Yehuda Shaul, Screenshot from @ArielKallner, (*Twitter*, 17 October 2023)

<<https://twitter.com/YehudaShaul/status/1714301966761771362>> accessed 15 February 2024.

²⁸⁴ Yehuda Shaul, Screenshot from Revital Gottlieb- Likud MK, (*Twitter*, 17 October 2023)

<<https://twitter.com/YehudaShaul/status/1714302002111430835>> accessed 15 February 2024.

²⁸⁵ Galit Distel Atbaryan, ‘מחיקת כל עזה מעל פני האדמה.’ Translation: ‘Erase all of Gaza from the face of the earth’ (*Twitter*, 1 November 2023)

<<https://twitter.com/galitdistel/status/1719689095230730656>> accessed 15 February 2024.

²⁸⁶ עכשיו 14 Translation: Now 14, 'שידור מיוחד: ישראל במלחמה' Translation: ‘Special broadcast: Israel at war’ (*Youtube*, 1 November 2023)

<<https://www.youtube.com/watch?v=hrZuQPI7Sz4>> accessed 15 February 2024.

accordingly. Israel has imposed a total blockade on Gaza, no electricity, no water, just damage. You wanted hell, you will get hell".²⁸⁷

5.1.14 Israeli Army Reservist Major General and Adviser to the Defense Minister Giora Eiland

140. On October 7, 2023, in an online journal, Giora Eiland made statements regarding the Israeli order to cut off water and electricity to Gaza: "This is what Israel has begun to do—we cut the supply of energy, water and diesel to the Strip [...] But it's not enough. In order to make the siege effective, we have to prevent others from giving assistance to Gaza [...] The people should be told that they have two choices; to stay and to starve, or to leave".²⁸⁸ Disregarding the broader context of Israel's occupation of Gaza, he also stated in a national newspaper on the same day that, "[w]hen you are at war with another country you don't feed them, you don't provide them electricity or gas or water or anything else [...] A country can be attacked in a much broader way, to bring the country to the brink of dysfunction. This is the necessary outcome of events in Gaza".²⁸⁹

141. Eiland repeatedly emphasised the benefits for Israel of creating a humanitarian crisis in Gaza, stating that "Israel has no interest in Gaza being rehabilitated",²⁹⁰ and that "[i]f we ever want to see the hostages alive, the only way is to create a severe humanitarian crisis in Gaza"²⁹¹ He suggested targeting water infrastructure, saying that water in Gaza

²⁸⁷ Maj Gen Ghassan Alian, Video address to Hamas and residents of Gaza, (@COGAT-MOD, *Youtube*) 10 October 2023 <<https://www.youtube.com/shorts/5a0EWv-07mE>> accessed 15 February 2024.

²⁸⁸ Giora Eiland, 'A new turning point in the history of the State of Israel. Most people don't understand that' (*Fathom*, 7 October 2023) <<https://fathomjournal.org/opinion-a-new-turning-point-in-the-history-of-the-state-of-israel-most-people-dont-understand-that/>> accessed 11 February 2024.

²⁸⁹ Giora Eiland, 'מדינת עזה פתחה במלחמה נגד ישראל - ואיתה צריך להילחם בהתאם' Translation: 'The state of Gaza has started a war against Israel - and it should be fought accordingly' (*Mako*, 7 October 2023) <https://www.mako.co.il/news-columns/2023_q4/Article-fcf787adObaOb81027.htm> accessed 15 February 2024.

²⁹⁰ Kann News, Interview with Giora Eiland, (*Twitter*, 17 November 2023) <https://twitter.com/kann_news/status/1725585143333622129> accessed 15 February 2024.

²⁹¹ Ariel Whitman, 'Giora Eiland outlines plan to get hostages back alive' (*Globes*, 8 October 2023) <<https://en.globes.co.il/en/article-giora-eiland-outlines-plan-to-get-hostages-back-alive-1001459631>> accessed 11 February 2024.

“comes from wells with salt water unfit for consumption. They have water treatment plants, Israel should hit those plants. When the entire world says we have gone insane and this is a humanitarian disaster, we will say, it’s not an end, it’s a means”.²⁹²

142. On October 12, 2023, in a Times radio interview, Eiland reiterated the need for Israel to create immense pressure on Gaza, making it an area where people cannot live until Hamas is destroyed:

“[C]reate such a huge pressure on Gaza, that Gaza will become an area where people cannot live. People cannot live, until Hamas is destroyed, which means that Israel not only stops to supply energy, diesel, water, food [...] as we did in the last twenty years [...] but we should prevent any possible assistance by others, and to create in Gaza such a terrible, unbearable situation, that can last weeks and months.”²⁹³

143. Eiland has consistently advocated for making Gaza “a place where no human being can exist”,²⁹⁴ declaring that “the State of Israel has no choice but to make Gaza a place that is temporarily, or permanently, impossible to live in”.²⁹⁵ On November 6, prior to Israel’s attack on Al-Shifa Hospital, Eiland said in an interview, “if there is an intention for a military action at Shifa [Hospital], which I think is inescapable, I hope that the head of the CIA got an explanation of why this is necessary, and why the US must ultimately back

²⁹² Yedioth Ahronoth, 'איך צריך להגיב לטבח של מאות?' Translation: ‘How should one respond to the massacre of hundreds?’, (*Yedioth Ahronoth*, 9 October 2023), <<https://drive.google.com/file/d/1l5Ow2ToNa20BcoL2yautiobij8ldNsVK/view>> accessed 15 February 2024.

²⁹³ Major General Giora Eiland, ‘How Israel plan to ‘destroy Hamas’”(Times Radio, *Youtube*) 12 October 2023 <<https://www.youtube.com/watch?v=CRHzodZwF2A>> accessed 15 February 2024.

²⁹⁴ Giora Eiland, ‘It's time to rip off the Hamas band-aid’ (*Yedioth Ahronoth*, 12 October 2023) <<https://www.ynetnews.com/article/sju3uabba>> accessed 11 February 2024.

²⁹⁵ Giora Eiland, 'זו לא נקמה. זה או אנחנו או הם' Translation: ‘This is not revenge. It's either us or them’, (*Yedioth Ahronoth*, 10 October 2023), <<https://www.ynet.co.il/yedioth/article/yokra13625377>> accessed 15 February 2024.

even an operation like this, even if there are thousands of bodies of civilians in the streets afterward”.²⁹⁶

144. In other statements, Eiland made it expressly clear that Israel should be targeting Palestinian civilians, especially women, of Gaza: He also controversially remarked: “Who are the ‘poor’ women of Gaza? They are all the mothers, sisters or wives of Hamas murderers. On the one hand, they are part of the infrastructure that supports the organisation, and on the other hand, if they experience a humanitarian disaster, then it can be assumed that some of the Hamas fighters and the more junior commanders will begin to understand that the war is futile [...] The international community warns us of a humanitarian disaster in Gaza and of severe epidemics. We must not shy away from this, as difficult as that may be. After all, severe epidemics in the south of Gaza will bring victory closer [...] It is precisely its civil collapse that will bring the end of the war closer. When senior Israeli figures say in the media ‘it’s either us or them’ we should clarify the question of who is ‘them’. ‘They’ are not only Hamas fighters with weapons, but also all the ‘civilian’ officials, including hospital administrators and school administrators, and also the entire Gaza population who enthusiastically supported Hamas and cheered on its atrocities on October 7th.”²⁹⁷

5.1.15 Deputy Head of COGAT Yogev Bar-Sheshet

145. On November 4, 2023, Israeli Army Colonel and Deputy Head of COGAT Yogev Bar-Sheshet spoke in a broadcasted television video recorded in Beit Lahia, one of the areas in Gaza with particularly extensive destruction and conveyed the following statement:

²⁹⁶ The Times of Israel, ‘Ex-top general: IDF op against Hamas at Shifa Hospital inescapable; US must back it’ *The Times of Israel* (Jerusalem, 6 November 2023) <https://www.timesofisrael.com/liveblog_entry/ex-top-general-IDF-op-against-hamas-at-shifa-hospital-inescapable-us-must-back-it/> accessed 11 February 2024.

²⁹⁷ Bezalel Smotrich, Screenshot of Giora Eiland ‘Let’s not be intimidated by the world’ in *Yedioth Ahronoth*, (*Twitter*, 19 November 2023) <<https://twitter.com/bezalelsm/status/1726198721946480911>> accessed 15 February 2024.; Talula Sha (quoting Quds News Network), Translation of Giora Eilan’s ‘Let’s not be intimidated by the world’ (*Twitter*, 19 November 2023) <<https://twitter.com/TalulaSha/status/1726267178201362438>> accessed 15 February 2024.

"[w]hoever returns here, if they return here after, will find scorched earth. No houses, no agriculture, no nothing. They have no future".²⁹⁸

5.1.16 Israeli Occupation Force Soldiers

146. On December 5, 2023, uniformed Israeli soldiers were captured on video, dancing, chanting and singing the provocative phrases "May their village burn. May Gaza be erased".²⁹⁹ On 7 December, during a separate incident inside Gaza, another video emerged featuring Israeli soldiers dancing, singing, and chanting phrases such as "we know our motto: there are no uninvolved civilians" and "to wipe off the seed of Amalek".³⁰⁰ By that date, the death toll in Gaza had reached 17,177 Palestinians, with an estimated 70 per cent being women and children. The period between December 7 and 8 2023 witnessed a devastating toll, with 350 people killed within a 24-hour span, equating to approximately one Palestinian in Gaza killed every four minutes.

147. A video created by Israeli soldiers in the Shuja'iyya Neighborhood within Gaza, on Friday, December 8, shows these soldiers setting fire to a truck with food and water in it. Their description of how they describe what they are doing is revealing: "It is the second candle of Hanukkah. [We are in a] factory of candy that is given to children who carry out terror

²⁹⁸ עכשיו 14 Translation: Now 14, 'תיעוד מיוחד מלב עזה: כך כוחותינו נלחמים בעומק שטח האויב' Translation: 'Special documentation from the heart of Gaza: this is how our forces fight deep in enemy territory' (Now 14, *Youtube*) 4 November 2023 <<https://www.youtube.com/watch?v=fqEj3DzadiM>> accessed 15 February 2024.; עכשיו 14

Translation: Now 14, 'תיעוד מיוחד מלב עזה: כך כוחותינו נלחמים בעומק שטח האויב' Translation: 'Special documentation from the heart of Gaza: this is how our forces fight deep in enemy territory' (Now 14, 5 November 2023) <<https://www.now14.co.il/תיעוד-מיוחד-מלב-עזה-כך-כוחותינו-נלחמים/>> accessed 15 February 2024.

²⁹⁹ Kobi Peretz, 'Peretz sings may your village burn 2' (OfekCenter, *Youtube*) 17 November 2023, <<https://www.youtube.com/watch?v=xcH2o4c5KZY>> accessed 15 February 2024.

³⁰⁰ Yinon Magal, Video of Israeli soldiers singing, (*Twitter*, 7 December 2023) <<https://twitter.com/YinonMagal/status/1732652279461757102>> accessed 15 February 2024.; Middle East Eye, Translation of video posted by Yinon Magal, (*Twitter*, 8 December 2023) <<https://twitter.com/MiddleEastEye/status/1733116719668113618>> accessed 15 February 2024.

attacks. We are bringing the light to this dark place, burning it until there remains no remnant of it”.³⁰¹

148. On December 21, to take another example, a platoon commander in a reserve battalion spoke in a public event in honour of the battalion and its role in Gaza so far.³⁰² The reserve officer summarised the Biblical story in Genesis 34 where Shimon and Levi, sons of Jacob, conduct a revenge attack on the people of Nablus in response to the rape of their sister. He then explained that what Shimon and Levi did in Nablus, his unit did in Beit Hanoun in Gaza. “But the mission is not yet complete,” he added. “We still have the whole of Gaza to do what we did in Beit Hanoun.”

149. Indeed, Captain Chai Hemo, deputy commander of a company, posted a video of himself on January 30, 2024, saying that, “with the help of god, we have destroyed a vast area [of Gaza] and killed tens of thousands of Amaleks, but we are not yet a moral army. This is the real war of the people of Israel. Moral is to understand that every Arab is a suspect. Maybe he is good, maybe he is a bomb, but he is suspect. Moral is to execute all the terrorists after interrogating them. Moral is to conquer and settle all of the Land of Israel, and every place we will leave a wasps’ nest, they will retaliate against us, sooner or later”.³⁰³

5.1.17 Summary

150. These few examples listed here are all drawn from Law for Palestine's 500+ database of genocidal statements made by Israeli officials³⁰⁴, including high-ranking military personnel and members of the Israeli Knesset, along with other influential figures and

³⁰¹ Israeli soldiers, ‘Israeli soldiers burn food and water supplies in Shujaiya, Gaza’ (Osama farooq khan, *Youtube*) 10 December 2023 < <https://www.youtube.com/watch?v=mbWAbnJbvGQ> > accessed 15 February 2024.

³⁰² Commander Yair Ben David, ‘Israeli army officer vows to turn entire Gaza Strip into rubble similar to situation in Beit Hanoun’ (Anadolu English, *Youtube*) 20 December 2023 < <https://www.youtube.com/watch?v=NK8ZnGKspeI> > accessed 18 February 2024.

³⁰³ Younis Tirawi, Video and Translation of Captain Chai Hemo, (*Twitter*, 30 January 2024) < <https://twitter.com/ytirawi/status/1752452789077147808> > accessed 18 February 2024.

³⁰⁴ The Database is attached in Annex I to this Submission.

groups in Israel. These statements collectively contribute to a clear intent by Israeli decision-makers to destroy Palestinians within Gaza. The rhetoric employed, ranging from calls for the total erasure of Gaza, to explicit expressions of the dehumanisation of the Palestinian population, paints a clear picture of political and military intent to commit genocide. Notably, the genocidal language in these statements is not confined to isolated incidents, but permeates throughout Israeli echelons of authority, reflecting a systemic narrative of the intended destruction of Gaza and Palestinians. The persistence of such discourse, amid escalating casualties, underscores a deeply rooted and concerted intention to commit genocide on the Palestinian people.

5.2 Intent for Ethnic Cleansing as a tool of Genocide

151. 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.

5.2.1 International Jurisprudence and Case Law on Ethnic Cleansing and Forced Displacement as a Tool for Genocide

152. There are several key distinctions to draw from jurisprudence of international courts on the relationship between ethnic cleansing and genocide. This section will identify the key principles from the jurisprudence that exists in international law.

Motive and Intent when considering Ethnic Cleansing and Genocide

153. When inferring specific genocidal intent, *dolus specialis*, a distinction ought to be made between motive and intent, where applicable. Where there exists a motive to remove the targeted group from a geographic area, and the targeted group has been subjected to alleged genocidal acts, that motive to displace or forcibly transfer is distinct from the

genocidal intent. In other words, the reason *why* the accused sought to destroy the victim group has no bearing on guilt of genocide.

154. In *Prosecutor v Milomir Stakić*, the Appeals Chamber found that the Trial Chamber properly distinguished between the “goal” of the accused to remove Bosnian Muslims - so-called *Bosniaks* - from Prijedor, i.e., the motive, from the intent to destroy the group as a means to that end.³⁰⁵ The question thus became whether the accused intended to achieve the goal or motive of forcible transfer through particular actions, including killing and imposing inhumane conditions of life, which amount to genocide. The mental state of the accused – i.e., the intent – is equally applicable to all genocidal acts undertaken by the accused. ³⁰⁶ The fact that the perpetrator *might also be driven by other motivations does not prohibit a conviction for genocide.*³⁰⁷

Intent to Displace

155. The intent to displace or remove a population via forcible transfer is not equivalent to an intent to destroy for the purposes of Genocide. However, when inferring genocidal intent, or *dolus specialis*, a distinction ought to be made between motive and intent, where applicable. Where there exists a motive to remove the targeted group from a geographic area, and the targeted group has been subjected to alleged genocidal acts, that motive to displace or forcibly transfer is distinct from the genocidal intent. Nonetheless, a forcible transfer operation can provide further evidence of an intent to destroy, and may be

³⁰⁵ *Prosecutor v. Milomir Stakić*, (Trial Judgment) IT-97-24-A (31 July 2003) [43]–[45].

³⁰⁶ In *Prosecutor v. Milomir Stakić*, (Trial Judgment) IT-97-24-A (31 July 2003), Prosecution argued that the Trial Chamber erred in focusing exclusively on acts of deportation, and not considering whether the atrocious living conditions in the detention camps and during the deportation process were calculated to bring about the destruction of the Bosnian Muslim population. The Appeals Chambers found it unnecessary for the Trial Chamber to specifically discuss whether the conditions that prevailed in detention camps and deportation convoys constituted evidence of an intent to destroy the population through the infliction of intolerable conditions of life. The Appeals Chamber found it sufficient that the Trial Chamber referred back to its analysis in relation to the Appellant’s mental state, such as its conclusion that the Appellant’s public statements suggested that his intention was only to displace the Bosnian Muslim population and not to destroy it, since this analysis was equally applicable to all alleged genocidal acts. (IT-97-24-A, [43]–[47]).

³⁰⁷ *Eliézer Niyitegaka v. Prosecutor* (Appeal Judgment) ICTR-96-14-A (9 July 2004) [53].

significant as indicative of there being such specific intent. These inferences can stem from the nature of acts, utterances (even if they fall short of express calls for a group's physical destruction), and context. As such, Tribunals have recognized that genocidal intent can be inferred from cumulative actions and words. In Palestine, Israeli leaders have paired genocidal language with references to forcible transfer as outlined in this section of this document. 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.

156. In *Prosecutor v. Milomir Stakić*, the Trial Chamber concluded that even though Appellant helped wage an intense propaganda campaign against Muslims, there was no evidence of the use of hateful terminology by Appellant himself from which the *dolus specialis* could be inferred.³⁰⁸ Statements made by the Appellant did not publicly advocate for killings and, while they revealed an intention to adjust the ethnic composition of Prijedor, the Trial Chamber was unable to infer an intention to destroy the Muslim group. Such an inference cannot be drawn from Appellant's remark that Muslims in Bosnia "were created artificially" and from his interview which, while demonstrating the intolerance of Muslims, advocated the removal of "enemy" Muslims from Prijedor rather than the physical elimination of all Muslims.³⁰⁹ The interview concluded with the statement: "those who stained their hands with blood will not be able to return. Those others, if they want...when the war ends, will be able to return".³¹⁰

157. Thus, the intention to displace a population is not equivalent to the intention to destroy it, distinguishing the intent formed to commit ethnic cleansing from the special intent required to establish genocide.³¹¹ The Trial Chamber asserted that "[a] clear distinction must be drawn between physical destruction and mere dissolution of a group. The expulsion of a group or part of a group does not in itself suffice for genocide".³¹² The

³⁰⁸ *Prosecutor v. Milomir Stakić*, (Trial Judgment) IT-97-24-A (31 July 2003) [50]-[52].

³⁰⁹ *Prosecutor v. Milomir Stakić*, (Trial Judgment) IT-97-24-A (31 July 2003) [50]-[52].

³¹⁰ *Prosecutor v. Milomir Stakić*, (Trial Judgment) IT-97-24-A (31 July 2003) [50]-[52].

³¹¹ *Prosecutor v. Milomir Stakić*, (Trial Judgment) IT-97-24-A (31 July 2003) [50]-[52].

³¹² *Prosecutor v. Milomir Stakić*, (Trial Judgment) IT-97-24-T (31 July 2003) [519].

Appeals Chamber found this assessment of Stakić's derogatory statements to be reasonable, holding that evidence demonstrating ethnic bias, however reprehensible, does not necessarily prove genocidal intent.³¹³

158. The ICJ Judgement in *Bosnia and Herzegovina v Serbia and Montenegro* affirmed that “measures intended to oblige members of a group to abandon their homes in order to escape the threat of subsequent ill-treatment... can only be a form of genocide within the meaning of the [Genocide] Convention, if it corresponds to or falls within one of the categories of acts prohibited by Article II of the Convention. Neither the intent, as a matter of policy, to render an area “ethnically homogeneous,” nor the operations that may be carried out to implement such policy, can as such be designated as genocide: the intent that characterises genocide is “to destroy, in whole or in part” a particular group, and deportation or displacement of the members of a group, even if effected by force, is not necessarily equivalent to destruction of that group, nor is such destruction an automatic consequence of the displacement”.³¹⁴

159. On a relevant point, the Trial Chamber in *Mladić* held that a finding of genocidal intent could not be attributed by inference to high-ranking leadership of an overarching joint criminal enterprise, whose purpose was ethnic cleansing rather than genocide. The Chamber explained that “[w]hile the statements and speeches . . . were inflammatory, caused fear, and incited ethnic hatred against their war-time enemy, the Trial Chamber must consider whether they demonstrated intent to destroy either of the protected groups. Considering the disparate dates, meetings, and purposes of the speeches and statements, the Trial Chamber is careful not to combine them to give a semblance of a collective intent to destroy where no such collective intent existed or to read individual statements and speeches in isolation and without context. The Trial Chamber notes in this regard that there were instances where Mladić, Koljević, and Karadžić intimated that conciliation and compromise were possible . . . when it came to the strategic goals of living in ethnically separate states. The Trial Chamber considers that *the speeches and*

³¹³*Prosecutor v. Milomir Stakić*, (Trial Judgment) IT-97-24-A (31 July 2003) [52].

³¹⁴*Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)* ICJ Judgement (26 February 2007) [190].

statements could have been directed to the military enemy and have been used as propaganda, rather than to demonstrate an expression of a genocidal intent.” Thus, the commission of prohibited acts and the use of force against Bosnian Muslims and Bosnian Croats with frequent references to ‘ethnic cleansing’ do not necessarily indicate intent to physically destroy the protected group. The Trial Chamber noted “for example that during the 16th Session of the Bosnian-Serb Assembly, Mladić used the word ‘eliminate’, but added ‘either temporarily or permanently’. The rhetorical speeches and statements assisted in the task of ethnic separation and division rather than the physical destruction of the protected groups”.³¹⁵

160. While the Trial Chamber found that certain perpetrators in other municipalities had the intent to destroy a part of the protected group of Bosnian Muslims, it asserted that the same could not be said of the perpetrators of prohibited acts committed against the Bosnian Muslims in any municipality. “An inference that the Bosnian-Serb leadership sought to destroy the protected groups in the Count 1 municipalities through the use of a number of perpetrators as tools requires more. In the absence of other evidence which would unambiguously support a finding of genocidal intent, drawing an inference on the basis of [acts of the perpetrators] alone is insufficient”.³¹⁶

Intent to Destroy

161. Although a forcible transfer operation or the call thereto is neither necessary to reach a finding of genocidal intent nor a stand-alone indicator of genocidal intent, it is considered as providing further evidence of the presence of the intent to destroy.³¹⁷ In other words, a forcible transfer operation and its accompanying circumstances, such that it creates conditions that contribute to genocide, may provide further support for genocidal intent.³¹⁸

³¹⁵ *Prosecutor v. Ratko Mladić* (Judgment) IT-09-92-T (22 November 2017) [4235].

³¹⁶ *Prosecutor v. Ratko Mladić* (Judgment) IT-09-92-T (22 November 2017) [4236].

³¹⁷ *Prosecutor v. Vujadin Popović* (Judgment) IT-05-88-A (10 June 2010).

³¹⁸ *Prosecutor v. Vujadin Popović* (Judgment) IT-05-88-A (10 June 2010).

162. The ICJ Judgement in *Bosnia and Herzegovina v. Serbia and Montenegro* indicates that acts described as ‘ethnic cleansing’ may constitute genocide “if they are such as to be characterized as, for example, ‘deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part,’ . . . provided such action is carried out with the necessary specific intent (*dolus specialis*), that is to say with a view to the destruction of the group, as distinct from its removal from the region.” The ICJ adds that “acts of ‘ethnic cleansing’ may occur in parallel to acts prohibited by Article II of the [Genocide] Convention, and may be significant as indicative of the presence of a specific intent (*dolus specialis*) inspiring those acts”.³¹⁹ Judge Lauterpacht clarifies in a separate opinion that forced displacement of civilians was part of “a deliberate campaign by the Serbs to eliminate Muslim control of, and presence in, substantial parts of Bosnia-Herzegovina. Such being the case, it is difficult to regard the Serbian acts as other than acts of genocide in that they clearly fall within categories (a), (b) and (c) of the definition of genocide quoted above, they are clearly directed against an ethnical or religious group as such, and they are intended to destroy that group, if not in whole certainly in part, to the extent necessary to ensure that that group no longer occupies the parts of Bosnia-Herzegovina coveted by the Serbs”.³²⁰ (ICJ Reports (1993), Separate Opinion, para. 68).

5.2.2 Calls for Forcible Transfer as Evidence of Genocidal Intent

163. 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.

164. In *Stakić*, the Appeals Chamber stated that the implications of the accused’s utterances may be considered in combination with the remainder of the evidence, i.e., considering the totality of evidence.³²¹ It reasoned that the perpetrator’s statements must be

³¹⁹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)* ICJ Judgement (26 February 2007) [190].

³²⁰ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)*, Separate Opinion of Judge Lauterpacht, ICJ Reports (1993) [68].

³²¹ *Prosecutor v. Milomir Stakić*, (Trial Judgment) IT-97-24-A (31 July 2003) [53]-[56].

understood in their proper context.³²² For example, “[i]n the context of events such as those occurring at Projeor,” the court may find that “calls for ethnic cleansing might reasonably be understood as implied call for the group’s destruction”.³²³ The consideration ought to be “whether all of the evidence, taken together, demonstrated genocidal mental state”.³²⁴

165. Although in *Stakić* genocidal intent was not found, there is room to distinguish the language of the accused from the language of Israeli leadership, who have more explicitly paired embraces for ethnic cleansing with explicit calls to destroy the population of Gaza, and the Palestinian people writ large. Thus, the intent of genocide has been expressed with the motive or goal of forcible transfer deliberately inflicting on Palestinians in Gaza conditions of life calculated to bring about the group’s physical destruction in whole or in part.

166. 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 inferred from both the actions of Israel’s leadership and the broader context of any explicit call to cleanse Gaza of its population.

Totality of Culpable Acts as Evidence of Genocidal Intent

167. Tribunals have recognised that genocidal intent can be inferred from cumulative actions and words. In *Popović*, the Appeals Chamber agreed with the Trial Chamber that the genocidal intent can be inferred from factors “such as the general context, the perpetration of other culpable acts systematically directed against the same group, the scale of atrocities committed, the systematic targeting of victims on account of their membership of a particular group, or the repetition of destructive and discriminatory acts”.³²⁵

³²² *Prosecutor v. Milomir Stakić*, (Trial Judgment) IT-97-24-A (31 July 2003) [52]-[56].

³²³ *Prosecutor v. Milomir Stakić*, (Trial Judgment) IT-97-24-A (31 July 2003) [52]-[56].

³²⁴ *Prosecutor v. Milomir Stakić*, (Trial Judgment) IT-97-24-A (31 July 2003) [52]-[56].

³²⁵ *Prosecutor v. Vujadin Popović* (Judgment) IT-05-88-A (10 June 2010) [823].

168. The Chamber in *Karadžić* followed a totality of the evidence approach in concluding an intent to destroy. In its analysis, the Chamber highlighted that “the continued escalation of the killings following the decision on 13 July to transfer the Bosnian Muslim males in Bosnian Serb custody to Zvornik with killings at Orahovac, Petkovci, Ročević and Kozluk, and at Kula School, Branjevo Military Farm, and the Pilica Cultural Centre.”³²⁶ The Chamber also clarified that opening a corridor does not necessarily negate an intent to destroy. It wrote “[a]lthough a corridor was opened for a period of approximately 24 hours, the Chamber finds that this was done by a brigade commander for reasons of military necessity and notes that it was quickly closed, reinforcements were sent to the Zvornik area, and the Main Staff dispatched three colonels to the area to investigate why the corridor had been opened. In the following days, members of the Bosnian Serb Forces continued to kill Bosnian Muslim males who came into custody, as exemplified by the killings of Bosnian Muslim males at Snagovo, Bišina, and Trnovo. The Chamber is thus of the view that the *opening of the corridor does not raise any doubt that members of the Bosnian Serb Forces intended to destroy the Bosnian Muslims in Srebrenica*”.³²⁷

169. In *Krstić*, the Prosecution argued that “Sprska’s *long-standing plan is to eliminate the Bosnian Muslims from the area*. Karadzic ordered corps to ‘create an unbearable situation of total insecurity with no hope of further survival or life for the inhabitants of Srebrenica.’”³²⁸ The Trial Chamber found that in seven days, 7000-8000 men were systematically massacred while the remainder of the population present at Srebrenica, some 25,000 persons, were forcibly transferred.³²⁹ The Trial Chamber highlighted that that Bosnian Serb forces knew of the destruction impact of killing two or three generations of men would have on the survival of a traditional patriarchal society; *the forces knew that the combination of killing with the forcible transfer of the women, children, and elderly would inevitably result in the physical disappearance of Bosnian Muslim population at Srebrenica*.³³⁰ The Trial Chamber noted that the intent to target

³²⁶ *Prosecutor v. Rodovan Karadžić* (Trial Judgement) IT-95-5/18-T (24 March 2016) [5668].

³²⁷ *Prosecutor v. Rodovan Karadžić* (Trial Judgement) IT-95-5/18-T (24 March 2016) [5670].

³²⁸ *Prosecutor v. Radislav Krstic* (Judgment) IT-98-33-T (2 August 2001) [592].

³²⁹ *Prosecutor v. Radislav Krstic* (Judgment) IT-98-33-T (2 August 2001) [487], [519].

³³⁰ *Prosecutor v. Radislav Krstic* (Judgment) IT-98-33-T (2 August 2001) [595].

Bosnian Muslims of Srebrenica as a group is further evidenced by *destroying their homes* in Srebrenica and the principal mosque.³³¹ The Trial Chamber concluded that the fact the Bosnian Serb forces did not limit themselves to expulsion but rather killed all men of military age “effectively destroyed the community of the Bosnian Muslims in Srebrenica as such and *eliminated all likelihood that it could ever reestablish itself on that territory*.”³³² Thus, the intent to kill all the Bosnian Muslim men of military age in Srebrenica constitutes an intent to destroy in part the Bosnian Muslim group” and therefore qualified as a genocide.³³³

170. In *Mladić*, the Trial Chamber observes that within a relatively short period of around three months, “Bosnian Muslims in Prijedor Municipality were the victims of a number of crimes constituting prohibited acts and other culpable acts including killings, causing serious bodily and mental harm, destruction of property, inhumane acts (forcible transfer), and deportation, plunder and appropriation, as well as imposing restrictive and discriminatory measures.” “The prohibited acts were largely committed on a discriminatory basis against Bosnian Muslims and *in the context of a widespread and systematic attack directed against the civilian population*.” The prohibited acts were committed contemporaneously with the discriminatory acts of destruction. By the end of the three months, there were few Bosnian Muslims left in the municipality.³³⁴ The Trial Chamber found that the attack on Prijedor Municipality was intensive and committed over a short time frame. Given the widespread and discriminatory nature of the acts, the Trial Chamber found “that *the only reasonable inference is that certain physical perpetrators of the prohibited acts had the intent to destroy part of the protected group of Bosnian Muslims when carrying out the prohibited acts of killings and causing serious bodily or mental harm*.” The Chamber noted that whether the targeted part

³³¹ *Prosecutor v. Radislav Krstic* (Judgment) IT-98-33-T (2 August 2001) [595].

³³² *Prosecutor v. Radislav Krstic* (Judgment) IT-98-33-T (2 August 2001) [597].

³³³ *Prosecutor v. Radislav Krstic* (Judgment) IT-98-33-T (2 August 2001) [598]-[599].

³³⁴ *Prosecutor v. Ratko Mladić* (Judgment) IT-09-92-T (22 November 2017) [3520]-[3523].

constituted a substantial part of the protected group, in so far as the specific intent, remains an inquiry to be examined.³³⁵

171. In *Blagojevic*, the Appeals Chamber noted that genocidal intent may be inferred from evidence of other culpable acts systematically directed against the protected group. It confirmed that “the forcible transfer operation, the separations, and the mistreatment and murders in Bratunac town are relevant considerations in assessing whether the principal perpetrators had genocidal intent.”³³⁶ However, the Appeals Chamber clarified that forcible transfer operation alone or coupled with the murders and mistreatment would *not* suffice to demonstrate intent to destroy the protected group. The Chamber cited the *Krstic* Appeal Judgement in affirming that “forcible transfer does not constitute in and of itself a genocidal act.”³³⁷ Instead, the held forcible transfer to be “simply a relevant consideration as part of the overall factual assessment. Similarly, the Appeals Chamber note[d] that “opportunistic killings” by their very nature provide a very limited basis for inferring genocidal intent.³³⁸ Rather, as the Appeals Chamber determined in the *Krstic* Appeal Judgement, these culpable acts simply assist in placing the mass killings in their proper context.”³³⁹ Considering *Blagojevic* was charged with aiding and abetting the principal perpetrator of genocide, the Chamber emphasized that the defendant’s awareness of the forcible transfer operation without knowledge of the mass killings cannot show the defendant had knowledge of the principal perpetrators’ genocidal intent.³⁴⁰

172. In *Popović*, a combination of the killings and the forcible transfer resulted in the finding of genocidal intent.³⁴¹ The Trial Chamber held that “members of the BSF perpetrated the underlying acts of killing and inflicting serious bodily and mental harm with genocidal intent”, and subsequently drew “*further support* for its conclusion from the ‘other

³³⁵ *Prosecutor v. Ratko Mladić* (Judgment) IT-09-92-T (22 November 2017) [3520]-[3526].

³³⁶ *Prosecutor v. Blagojevic and Jokic* (Appeal Judgment) IT-02-60-A (9 May 2007) [123].

³³⁷ *Prosecutor v. Blagojevic and Jokic* (Appeal Judgment) IT-02-60-A (9 May 2007) [123].

³³⁸ *Prosecutor v. Blagojevic and Jokic* (Appeal Judgment) IT-02-60-A (9 May 2007) [123].

³³⁹ *Prosecutor v. Blagojevic and Jokic* (Appeal Judgment) IT-02-60-A (9 May 2007) [123].

³⁴⁰ *Prosecutor v. Blagojevic and Jokic* (Appeal Judgment) IT-02-60-A (9 May 2007) [123].

³⁴¹ *Prosecutor v. Vujadin Popović* (Trial Judgment) IT-05-88-T (10 June 2010).

culpable acts systematically directed against the same group,' notably the forcible transfer operation and its accompanying circumstances."³⁴² The Appeals Chamber interpreted the Trial Chamber's holding as not requiring "participation in the forcible transfer operation to reach a finding of genocidal intent but rather considered it as providing *'further* evidence that the intent was to destroy".³⁴³

173. Furthermore, the Appeals Chamber in *Popović* clarified that the genocide convention does not require genocidal intent with respect to both the mass killing of men and the forcible transfer of women and children.³⁴⁴ In this appeal, the defendant misinterpreted the indictment to be of two charges: one is "that [the accused,] Beara, while harbouring genocidal intent: (1) killed Bosnian Muslims; and (2) inflicted upon them serious bodily or mental harm, 'including but not limited to [...] the forced movement of the population'," and the second charge is "that Beara knew that the forcible transfer of the women and children from Srebrenica and Žepa created conditions that would contribute to the destruction of the entire Muslim population of Eastern Bosnia."³⁴⁵ The Chamber clarified that the prosecution had charged "Beara, first, with carrying out acts of killing and serious bodily or mental harm with genocidal intent and, second, with knowing that the forcible transfer created conditions that would contribute to the genocide. The Appeals Chamber note[d] in this regard that the Trial Chamber found that Beara knew of the existence of the forcible transfer operation".³⁴⁶

State Plan or Policy

174. The existence of a plan or policy can also be used as a factor to establish genocidal intent. However, a state plan or policy is not required to establish such intent, for it is not an element of the crime of genocide under international law.³⁴⁷ In *Krstić*, the Trial Chamber

³⁴² *Prosecutor v. Vujadin Popović* (Trial Judgment) IT-05-88-T (10 June 2010) [861]-[862].

³⁴³ *Prosecutor v. Vujadin Popović* (Trial Judgment) IT-05-88-T (10 June 2010) [491].

³⁴⁴ *Prosecutor v. Vujadin Popović* (Appeal Judgment) IT-05-88-A (30 January 2015).

³⁴⁵ *Prosecutor v. Vujadin Popović* (Appeal Judgment) IT-05-88-A (30 January 2015) [492].

³⁴⁶ *Prosecutor v. Vujadin Popović* (Trial Judgment) IT-05-88-T (10 June 2010) [492].

³⁴⁷ *Prosecutor v. Vujadin Popović* (Trial Judgment) IT-05-88-T (10 June 2010) [430]; *Prosecutor v. Goran Jelisić* (Appeal Judgment) IT-95-10-A (5 July 2001) [48]: "the existence of a plan or policy is not a legal

explained that it was not required “that the genocidal acts be premeditated over a long period.”³⁴⁸ It found that *a plan to ethnically cleanse the Srebrenica region “escalated” into genocide* only a day or two before the actual acts were perpetrated.³⁴⁹

Difference in Interpretation between Rome Statute and Genocide Convention

175. Despite the ICTY and ICTR having held that a state or policy requirement is not consistent with the Genocide Convention, William Schabas explains in Triffterer’s and Ambos’ commentary on the Rome Statute that the ICC, influenced by the Elements of Crimes, might read a contextual element in Article 6 of the Rome Statute.³⁵⁰

176. Schabas elaborates that the Preparatory Commission, tasked with formulating the Elements of Crimes related to genocide, introduced a contextual component for the application of Article 6 of the Rome Statute, a factor absent in the Convention itself: “The conduct took place in the context of a manifest pattern of similar conduct directed against that group or was conduct that could itself affect such destruction.”³⁵¹ During discussions in the Preparatory Commission, the United States suggested that the mental element of genocide necessitates the concept of ‘a widespread or systematic policy or practice.’³⁵² This proposal faced widespread criticism for being an unnecessary addition to a well-established definition, lacking support in case law or the travaux of the Convention. Nevertheless, Israel contended that it was challenging to envision a case of genocide not executed as a ‘widespread and systematic policy or practice.’ As the debate progressed, a

ingredient of the crime”; *The Prosecutor v. Clément Kayishema and Obed Ruzindana* (Judgment) ICTR-95-1-A (1 June 2001) [138]: “a genocidal plan is not a constituent element of the crime of genocide.”

³⁴⁸ *Prosecutor v. Radislav Krstic* (Trial Judgment) IT-98-33-T (2 August 2001) [572].

³⁴⁹ *Prosecutor v. Radislav Krstic* (Trial Judgment) IT-98-33-T (2 August 2001) [619].

³⁵⁰ William Schabas, ‘Article 6’ in Triffterer/Ambos (eds) *The Rome Statute of the International Criminal Court: A Commentary*, 3rd edition, Verlag C H Beck, 2016.

³⁵¹ William Schabas, ‘Article 6’ in Triffterer/Ambos (eds) *The Rome Statute of the International Criminal Court: A Commentary*, 3rd edition, Verlag C H Beck, 2016.

³⁵² William Schabas, ‘Article 6’ in Triffterer/Ambos (eds) *The Rome Statute of the International Criminal Court: A Commentary*, 3rd edition, Verlag C H Beck, 2016.

consensus emerged, acknowledging the ‘plan’ element, albeit with a more cautious formulation, as reflected in the Elements.

177. The adoption of a contextual provision in the Elements was *after* an ICTY ruling that genocide could be committed by an individual, acting alone, and in the absence of any State or organizational plan or policy. In *Sikirica*, the ICTY stated that an empirical assessment of all evidence is necessary to establish the very specific intent required for genocide.³⁵³ In *Kayishema & Ruzindana*, the ICTR asserted, “although a specific plan to destroy does not constitute an element of genocide, it would appear that it is not easy to carry out a genocide without a plan or organization.”³⁵⁴ The Tribunal emphasised that the existence of such a plan would strongly indicate the specific intent required for the crime of genocide. In the *Bashir* arrest warrant decision, the ICC Pre-Trial Chamber acknowledged that Article 6 of the Rome Statute itself ‘does not expressly require any contextual element.’³⁵⁵ It pointed to the case law of the *ad hoc* tribunals, which did not insist on a plan or policy as an element of the crime of genocide.³⁵⁶ However, contrary to the *ad hoc* tribunals’ interpretation, Pre-Trial Chamber I underscored the significance of the contextual element explicitly outlined in the Elements of Crimes. And according to this contextual element, the crime of genocide is only deemed complete when the relevant conduct poses a concrete threat to the existence of the targeted group or a part thereof.³⁵⁷

178. Thus, while the ICTY rejected arguments that the contextual element in the Elements of Crimes is consistent with the definition of genocide, ICC case law suggests a plausible

³⁵³ William Schabas, ‘Article 6’ in Triffterer/Ambos (eds) *The Rome Statute of the International Criminal Court: A Commentary*, 3rd edition, Verlag C H Beck, 2016; *Prosecutor v. Dusko Sikirica, Damir Dosen, Dragan Kolundzija* (Sentencing Judgement) ICTY IT-95-8-S (13 November 2001) [58]-[59].

³⁵⁴ *Prosecutor v. Clément Kayishema and Obed Ruzindana* (Trial Judgement) ICTR-95-1-T (21 May 1999) [94].

³⁵⁵ *Prosecutor v. Omar Hassan Ahmad Al Bashir* (Decision on the Prosecution’s Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir) Pre-Trial Chamber I, ICC (4 March 2009) [117].

³⁵⁶ *Prosecutor v. Omar Hassan Ahmad Al Bashir* (Decision on the Prosecution’s Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir) Pre-Trial Chamber ICC (4 March 2009) [119].

³⁵⁷ *Prosecutor v. Omar Hassan Ahmad Al Bashir* (Decision on the Prosecution’s Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir) Pre-Trial Chamber ICC (4 March 2009) [123]-[133].

interpretation of a contextual element in Article 6 through a teleological approach, considering the ‘intent to destroy’ as its ‘carrier’ or ‘holder’.³⁵⁸

Israel's Genocidal Intent: Examining Ethnic Cleansing and Forced Displacement in Gaza

179. Henceforth, considering the aforementioned analysis and judicial precedents, the Israeli practices involving ethnic cleansing and forced displacement tactics against the Gaza Strip's population, coupled with extensive property destruction, deliberate targeting and killing of civilians, issuance of evacuation orders, and imposition of harsh living conditions, including starvation, when considered collectively, particularly in the context of Israeli officials' rhetoric towards the entire Gaza population and calls for their annihilation, strongly suggest a serious intent of genocide.

180. In this context, attention must be given to a wartime proposal drafted by the Intelligence Ministry in Israel, calling for the transfer of Gaza's 2.3 million inhabitants to Egypt's Sinai peninsula.³⁵⁹ While the plan presents other options for the post-war scenario in Gaza, such as reinstating the West Bank-based Palestinian Authority or backing a local administration, these options were dismissed as inadequate for deterring attacks on Israel. While the proposal lacks binding authority and the Israeli Prime Minister's Office has stated that discussions on the 'day after' have not been held officially,³⁶⁰ neither confirming nor denying the proposal's contents, Israeli actions and statements appear to align with its provisions. Notably, the Israeli Prime Minister rejected the reinstatement of the Palestinian Authority in Gaza, a proposal dismissed by the plan.³⁶¹

³⁵⁸ William Schabas, ‘Article 6’ in Triffterer/Ambos (eds) *The Rome Statute of the International Criminal Court: A Commentary*, 3rd edition, Verlag C H Beck, 2016.

³⁵⁹ The Associated Press, ‘An Israeli ministry, in a ‘concept paper,’ proposes transferring Gaza civilians to Egypt’s Sinai” (*The Associated Press*, 31 October 2023) < <https://apnews.com/article/israel-gaza-population-transfer-hamas-egypt-palestinians-refugees-5f99378c0af6aca183a90c631fa4da5a> > accessed 18 March 2024.

³⁶⁰ Ibid.

³⁶¹ CNBC, ‘Israel’s Netanyahu rejects any Palestinian sovereignty in post-war Gaza, rebuffing Biden” (*CNBC*, 22 January 2024) < <https://www.cnbc.com/2024/01/20/israels-netanyahu-rejects-any-palestinian-sovereignty-in-post-war-gaza-rebuffing-biden.html> > accessed 18 March 2024.

181. In subsequent events, several ministers under Netanyahu's administration participated in the 'Resettle Gaza' Conference, advocating for the transfer of Palestinians, with Israel's security minister, Itamar Ben-Gvir, suggesting the exploration of "a legal way to voluntarily emigrate [Palestinians] and impose death sentences on terrorists,"³⁶² Communications Minister Shlomo Karhi described "voluntary emigration" as a condition imposed until consent is obtained,³⁶³ reminiscent of historical events when Ben-Zion Cohen, the Irgun commander involved in the Deir Yassin massacre, aimed to terrorize Palestine's indigenous population into leaving the country. 'Three or four more Deir Yassins and not a single Arab would have remained in the country,' he said.³⁶⁴

182. Likewise, Israeli politicians and defense officials have called for a second Nakba,³⁶⁵ with Finance Minister Bezalel Yoel Smotrich proposing, amid the ongoing annihilation of the Gaza people, that "If in Gaza there will be 100,000 or 200,000 Arabs and not 2 million, the entire conversation on 'the day after' will look different," advocating for measures to encourage emigration.³⁶⁶

183. On this basis, UN Special Rapporteur on the human rights of internally displaced persons cautioned that Israel aims to permanently alter Gaza's population through expanding evacuation orders and widespread and systematic attacks on civilians and

³⁶² Haaretz, 'Netanyahu Ministers Join Thousands of Israelis in 'Resettle Gaza' Conference Calling for Palestinians' Transfer' (*Haaretz*, 28 January 2024) <<https://www.haaretz.com/israel-news/2024-01-28/ty-article/ministers-from-netanyahus-party-join-thousands-of-israelis-at-resettle-gaza-conference/0000018d-512f-dfdc-a5ad-db7f35e10000>> accessed 18 March 2024.

³⁶³ Ibid.

³⁶⁴ Haaretz, 'Israeli Commander of Massacre at Palestinian Village Dies' (*Haaretz*, 19 October 2021) <<https://www.haaretz.com/israel-news/2021-10-19/ty-article/.highlight/commander-of-deadly-1948-operation-at-deir-yassin-dies-at-94/0000017f-e98c-d639-af7f-e9dfec000000>> accessed 18 March 2024.

³⁶⁵ Ariel Kallner, Israel MK (*Twitter*, 7 October 2023) <<https://twitter.com/ArielKallner/status/1710769363119141268>> accessed 17 February 2024

³⁶⁶ The Jerusalem Post, 'Smotrich: Day after is different with only 200,000 Arabs in Gaza' (*The Jerusalem Post*, 1 January 2024) <<https://www.jpost.com/israel-hamas-war/article-780229>> accessed 16 March 2024.

infrastructure in the enclave's southern regions, noting that since 7 October, 1.9 million people – 85 percent of Gaza's population – have been internally displaced.³⁶⁷

184. In light of Israel's overarching policy of genocide, as evidenced by its actions to eliminate Palestinians in Gaza, subject them to dire conditions, and inflict inhumane treatment with the objective of their destruction, this systematic campaign of ethnic cleansing and forced displacement must be viewed within a broader context. These actions, combined with historical precedents, underscore Israel's specific intent (*dolus specialis*) to perpetrate genocidal acts, providing further evidence of its intent to impose conditions on Palestinians conducive to their destruction.

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

185. 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, that they are therefore inseparable from combatants, and consequently that the war on Gaza includes and is against the entire civilian population.³⁶⁸ They have also 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.³⁶⁹

³⁶⁷ OHCHR, 'Israel working to expel civilian population of Gaza, UN expert warns' (*OHCHR*, 22 December 2023) <<https://www.ohchr.org/en/press-releases/2023/12/israel-working-expel-civilian-population-gaza-un-expert-warns>> accessed 16 March 2024.

³⁶⁸ 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.

³⁶⁹ 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)>

186. The argument that all Palestinians are human shields because of their proximity to Hamas is an express attempt to “de-civilianise” the population - that is, the systematic attempts, through the mobilisation of different legal and political discourses, to deprive an entire population of civilian protection in order to justify the use of lethal force against them.³⁷⁰

187. 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.³⁷¹ 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.³⁷²

Distinction and proportionality

188. Distinction: this principle provides that parties to an armed conflict must “at all times distinguish between the civilian population and combatants and between civilian

[%20Some%20Factual%20and%20Legal%20Aspects%20-%20Israel%20Ministry%20of%20Foreign%20Affairs%20\(2%20NOV%202023\).pdf](#)> accessed 12 February 2024.

³⁷⁰ De-civilianisation is a concept developed in N Gordon and N Perugini, *Human Shields: A History of People in the Line of Fire* (University of California Press 2020) - to describe the deliberate erosion of civilian protections through the rhetoric of human shielding. See in particular, 166-168.

³⁷¹ “Distinction”: International Committee of the Red Cross (ICRC), Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1125 UNTS 3, 8 June 1977, Article 48; “Proportionality”: International Committee of the Red Cross (ICRC), Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1125 UNTS 3, 8 June 1977, Article 51.

³⁷² United Nations General Assembly, Rome Statute of the International Criminal Court (last amended 2010), ISBN No. 92-9227-227-6, 17 July 1998, Art. 6 <www.icc-cpi.int/sites/default/files/RS-Eng.pdf> accessed 12 February 2024; United Nations General Assembly, Convention on the Prevention and Punishment of the Crime of Genocide, United Nations, Treaty Series, vol. 78, p. 277, 9 December 1948, Art. 2 <www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf> accessed 12 February 2024.

objects and military objectives and accordingly shall direct their operations only against military objectives”.³⁷³ The accusation that Palestinian civilians act as human shields for Hamas blurs the line between civilian and combatant, justifying large scale civilian attacks and violating the principle of distinction.

189. Proportionality: this principle prohibits attacks against military objectives which are “expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated”.³⁷⁴

190. The accusation that Palestinian civilians act as human shields for Hamas is used by Israel to justify large-scale, widespread attacks on life sustaining infrastructure and civilians through the logic that Hamas has embedded itself in the civilian population, and as a result Israel argues that civilian casualties are a necessary consequence of eradicating enemy combatants.³⁷⁵ According to an Israeli study from December 9, 2023, civilians make up 61% of Gaza deaths from airstrikes.³⁷⁶ According to analysis from rights group,

³⁷³ International Committee of the Red Cross (ICRC), Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1125 UNTS 3, 8 June 1977, Article 48.

³⁷⁴ International Committee of the Red Cross (ICRC), Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1125 UNTS 3, 8 June 1977, Article 51.

³⁷⁵ Israel Ministry of Foreign Affairs, ‘ Hamas-Israel Conflict 2023: Frequently Asked Questions’ (*gov.il*, 6 December 2023) updated 8 December 2023 <www.gov.il/en/Departments/General/swords-of-iron-faq-6-dec-2023> accessed 12 February 2024; M McCluskey and R Allen Greene, ‘ Israel military says 2 civilians killed for every Hamas militant is a ‘tremendously positive’ ratio given the combat challenges’ (*CNN*, 6 December 2023) <<https://edition.cnn.com/2023/12/05/middleeast/israel-hamas-military-civilian-ratio-killed-intl-hnk/index.html>> accessed 12 February 2024.

³⁷⁶ Yagil Levy, ‘ The Israeli Army Has Dropped the Restraint in Gaza, and the Data Shows Unprecedented Killing’ *Haaretz* (Tel Aviv, 9 December 2023) <www.haaretz.com/israel-news/2023-12-09/ty-article-magazine/.highlight/the-israeli-army-has-dropped-the-restraint-in-gaza-and-data-shows-unprecedented-killing/0000018c-4cca-db23-ad9f-6cdae8ad0000> accessed 12 February 2024; Julian Borger, ‘ Civilians make up 61% of Gaza deaths from airstrikes, Israeli study finds’ *The Guardian* (London, 9 December 2023) <www.theguardian.com/world/2023/dec/09/civilian-toll-israeli-airstrikes-gaza-unprecedented-killing-study> accessed 12 February 2024.

this number is closer to 90%.³⁷⁷ This excessive use of force against civilian populations to obtain military advantage violates the principle of proportionality.

191. While IHL concedes that protected objects lose their special status when they are used as human shields by combatants, The burden of proof lies on the side making the allegation.³⁷⁸ Generalised, un-based and or evidenced holistic allegations of human shielding carry no meaning and do not release Israel of its duty. Further, Israel is still obligated to adhere to proportionality and precautionary requirements to minimise civilian casualties even as it launches attacks upon objects that have lost their protected status.³⁷⁹

192. Numerous offences carried out by the Israeli Forces over the past months have been seen to violate principles of proportionality, distinction, and military necessity. For example, the October airstrikes on Jabaliya refugee camp,³⁸⁰ the October 7 airstrike on a three-

³⁷⁷ Euro-Med Human Rights Monitor, 'Contrary to Israeli claims, 9 out of 10 of those killed in Gaza are civilians' (*Euro-Med Human Rights Monitor*, 5 December 2023)

<<https://euromedmonitor.org/en/article/6004/Contrary-to-Israeli-claims,-9-out-of-10-of-those-killed-in-Gaza-are-civilians%E2%80%8B>> accessed 12 February 2024.

³⁷⁸ "The burden of demonstrating that this protective status is lost rests with those who fire the gun, the missile, or the rocket in question," Karim Khan, Chief Prosecutor at the International Criminal Court, in 'We are witnessing a pandemic of inhumanity: to halt the spread, we must cling to the law' *The Guardian* (London, 10 November 2023) <www.theguardian.com/commentisfree/2023/nov/10/law-israel-amas-international-criminal-court-icc> accessed 17 February 2023.

³⁷⁹ Karim Khan, 'We are witnessing a pandemic of inhumanity: to halt the spread, we must cling to the law' *The Guardian* (London, 10 November 2023) <www.theguardian.com/commentisfree/2023/nov/10/law-israel-amas-international-criminal-court-icc> accessed 17 February 2023; Jean Pictet and others, 'Protocol I: Article 13 - Discontinuance of protection of civilian medical units', in Yves Sandoz, Christophe Swinarski and Bruno Zimmermann (eds), *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (Martinus Nijhoff Publishers, International Committee of the Red Cross, Geneva 1987), 173, para 556.

³⁸⁰ 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 12 February 2024.

storey residential building in the al-Zeitoun neighbourhood,³⁸¹ the October 10 airstrike on al-Sahaba Street.³⁸²

193. Further, these offences have been accompanied by rhetoric that blurs lines between civilians and combatants, deploys dehumanising language, and manufactures greater legitimacy to calls from Israeli officials for the destruction and extermination of the entire population of Gaza. Numerous statements have been made to this effect, indicating a calculated conflation of Hamas fighters with Palestinian civilians. Notably:

- October 12, 2023, President of Israel, Isaac Herzog: “It’s an entire nation out there that is responsible. It’s not true this rhetoric about civilians not aware, not involved. It’s absolutely not true. (...) and we will fight until we break their backbone”.³⁸³ He argued that Palestinians could have risen up against their leadership, but in failing to do so they had become inseparable from Palestinian resistance actors and therefore were legitimate military targets of Israel.³⁸⁴
- October 9, 2023, the Israeli Defense Minister, Yoav Gallant: “I have ordered a complete siege on Gaza. There will be no electricity, no food, no fuel, everything is closed... We are fighting human animals and we are acting accordingly.”³⁸⁵

³⁸¹ 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 12 February 2024 .

³⁸² 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 12 February 2024.

³⁸³ Rageh Omaar, ‘Israeli president Isaac Herzog says Gazans could have risen up to fight ‘evil’ Hamas’ (*ITV News*, 13 October 2023) <www.itv.com/news/2023-10-13/israeli-president-says-gazans-could-have-risen-up-to-fight-hamas> accessed 12 February 2024.

³⁸⁴ Rageh Omaar, ‘Israeli president Isaac Herzog says Gazans could have risen up to fight ‘evil’ Hamas’ (*ITV News*, 13 October 2023) <www.itv.com/news/2023-10-13/israeli-president-says-gazans-could-have-risen-up-to-fight-hamas> accessed 12 February 2024.

³⁸⁵ Yoav Gallant, “אנחנו נלחמים בחיות אדם- ואנחנו נוהגים בהתאם. אנחנו מטילים מצור על העיר עזה” - שר הביטחון, יואב גלנט” Translation: “We are fighting human animals - and we act accordingly. We are laying siege to Gaza City” - Minister of Defense, Yoav Galant’, (ערוץ כנסת, *Youtube*) 9 October 2023 <www.youtube.com/watch?v=1nxvS9VY-to> accessed 15 February 2024; Translation in: Emanuel Fabian,

- October 9, 2023, the Israeli Minister of Education, Yoav Kisch: “Those are animals, they have no right to exist. I am not debating the way it will happen, but they need to be exterminated”.³⁸⁶
- November 4, 2023, the Israeli Minister of Heritage, Amichai Eliyahu: called for an atomic bomb to be dropped on Gaza.³⁸⁷
- November 10, 2023, the Israeli National Security Minister, Itamar Ben-Gvir: “When we say that Hamas should be destroyed, it also means those who celebrate, those who support, and those who hand out candy—they’re all terrorists, and they should also be destroyed.”³⁸⁸
- Israeli Prime Minister, Benjamin Netanyahu: has repeatedly made Biblical references to genocide, characterised the war as one between children of darkness and light, and the supremacy of good over evil and barbarianism.³⁸⁹

‘Defense minister announces ‘complete siege’ of Gaza: No power, food or fuel’ *The Times of Israel* (Jerusalem, 9 October 2023). <https://www.timesofisrael.com/liveblog_entry/defense-minister-announces-complete-siege-of-gaza-no-power-food-or-fuel/> accessed 12 February 2024.

³⁸⁶ The patriots on channel 14 episode posted October 9 2023 [27: 39 – 27:47]minutes

<www.youtube.com/playlist?list=PL8E54R76rowCcCOn_HQf36o1RF3_oD3z4>

³⁸⁷ Yehuda Shaul, Quote from Amichai Eliyahu and link to report, (*Twitter*, 11 November 2023)

<twitter.com/YehudaShaul/status/1723375984160772550> accessed 15 February 2024.

³⁸⁸ Itamar Ben-Gvir on Channel 12, 'השר בן גביר בפגוש את העיתונות על המלחמה, הקונספציה ועוד' Translation: ‘Minister Ben-Gvir meeting the press about the war, the conspiracy and more’ (*Jewish Power, Youtube*) 11 November 2023, 10:30 onwards <www.youtube.com/watch?v=2yRl-cc-D3w> accessed 15 February 2024; Translated by: Quds News Network, Translated quote from Itamar Ben-Gvir, (*Twitter*, 12 November 2023)

<twitter.com/QudsNen/status/1723784790682358189> accessed 15 February 2024.

³⁸⁹ Israel Prime Minister’s Office, ‘PM Netanyahu asks Ministers to Rise for a Moment of Silence’ (*gov.il*, 15 October 2023 <www.gov.il/en/departments/news/spoke-start151023> accessed 13 February 2024;

Israel Ministry of Foreign Affairs, ‘Excerpt from PM Netanyahu’s remarks at the opening of the Winter Assembly of the 25th Knesset’s Second Session’ (*gov.il*, 16 October 2023)

<www.gov.il/en/departments/news/excerpt-from-pm-netanyahu-s-remarks-at-the-opening-of-the-knesset-s-winter-assembly-16-oct-2023> accessed 13 February 2024; Prime Minister’s Office in Hebrew, Analogizing the children of light and the children of darkness, (*Twitter*, 3 November 2023).

<https://twitter.com/IsraeliPM_heb/status/1720406469055500583> accessed 15 February 2024;

194. Additionally, Israeli public officials have justified attacks against religious sites such as churches and mosques by arguing that Hamas has used these sites as human shields in the past.³⁹⁰ On October 20, 2023, the Israeli Forces attacked the Greek Orthodox Church of Saint Porphyrius, one of the oldest buildings in Gaza, constructed in the 5th century CE.³⁹¹ Israeli military intelligence argued that because the church had been used for 'terrorist' activities earlier, it was a legitimate target.³⁹² It also claimed to hit a command centre of the Palestinian resistance although no credible evidence was provided to support its claim or justify the disproportionate civilian casualties the strike caused.³⁹³ Another airstrike was carried out on the Holy Family Parish in Gaza in December killing 2 civilians,

Israel Ministry of Foreign Affairs, 'Christmas message from PM Netanyahu' (*gov.il*, 24 December 2023) <www.gov.il/en/departments/news/christmas-message-from-pm-netanyahu-24-dec-2023> accessed 13 February 2024; Address by the Prime Minister Netanyahu, 'שידור חי: ראש הממשלה נתניהו, שר הבטחון גלנט, והשר גנץ' Translation: 'Live broadcast: Prime Minister Netanyahu, Defense Minister Galant, and Minister Gantz hold a joint press conference'(IsraeliPM, *Youtube*) 28 October 2023 <www.youtube.com/watch?v=IIPkoDk6isc> accessed 15 February 2024; Translation in: Sky News, 'Israel-Hamas war: 'We will fight and we will win', says Benjamin Netanyahu' (*Sky News*, 28 October 2023) <<https://news.sky.com/video/israel-hamas-war-we-will-fight-and-we-will-win-says-benjamin-netanyahu-12995212>> accessed 13 February 2024; Prime Minister's Office in Hebrew, 'זכור את אשר עשה לך עמלק' Translation: '[...] Remember what Amalek did to you' (*Twitter*, 3 November 2023) <https://twitter.com/IsraeliPM_heb/status/1720406463972004198> accessed 15 February 2024; Sefaria, I Samuel 15:1-34, (JPS, 1985) <www.sefaria.org/I_Samuel.15.1-34?lang=bi> accessed 15 February 2024.

³⁹⁰ The Meir Amit Intelligence and Terrorism Information Center, 'Hamas use of the civilian population as human shields and Gaza's civilian facilities for terrorism', (*The Meir Amit Intelligence and Terrorism Information Center*, 18 November 2023) <www.terrorism-info.org.il/en/hamas-use-of-the-civilian-population-as-human-shields-and-gazas-civilian-facilities-for-terrorism/> accessed 13 February 2024.

³⁹¹Al Jazeera, 'Israel bombs Greek Orthodox Gaza church sheltering displaced people' (*Al Jazeera*, 20 October 2023) <www.aljazeera.com/news/2023/10/20/war-crime-israel-bombs-gaza-church-sheltering-displaced-people> accessed 13 February 2024.

³⁹² The Meir Amit Intelligence and Terrorism Information Center, 'Hamas use of the civilian population as human shields and Gaza's civilian facilities for terrorism', (*The Meir Amit Intelligence and Terrorism Information Center*, 18 November 2023) <www.terrorism-info.org.il/en/hamas-use-of-the-civilian-population-as-human-shields-and-gazas-civilian-facilities-for-terrorism/> accessed 13 February 2024.

³⁹³Al Jazeera, 'Israel bombs Greek Orthodox Gaza church sheltering displaced people' (*Al Jazeera*, 20 October 2023) <www.aljazeera.com/news/2023/10/20/war-crime-israel-bombs-gaza-church-sheltering-displaced-people> accessed 13 February 2024.

but Israel did not attempt to justify the attack.³⁹⁴ This indiscriminate targeting of religious sites further shows that genocidal intent is national rather than religious.

195. The Israeli Forces have also justified attacks against schools and United Nations shelters in Gaza by claiming they have been used as human shields by Hamas in the past.³⁹⁵ Not only are Israeli Forces allegations unverified—the Israeli Forces have been accused of fabricating evidence to justify attacks against medical units in Gaza throughout the war³⁹⁶—but the Israeli Forces has failed to provide specific and reasonable evidence of schools, hospitals, and mosques being used as shields.³⁹⁷ For instance, during an attack on Al Fakhoura school in northern Gaza, Israel argued that it was conducting military operations against terrorist activities in the Jabaliya Refugee Camp where the school is situated, without specifying that the school itself was being used as a human shield.³⁹⁸

196. The mobilisation of the human shield argument thus provides Israel's officials with a legal cover for its military actions against civilian populations and their life sustaining infrastructure.

³⁹⁴ Reuters, 'Gaza church killings at odds with war on Hamas, Italy tells Israel' (*Reuters*, 18 December 2023) <<https://reuters.com/world/middle-east/gaza-church-killings-odds-with-war-hamas-italy-tells-israel-2023-12-18/>> accessed 13 February 2024.

³⁹⁵ Emanuel Fabian and TOI Staff, 'Army finds weapons in north Gaza school, hits 230 sites in past day' *The Times of Israel* (Jerusalem, 21 December 2023) <www.timesofisrael.com/liveblog_entry/army-finds-weapons-in-north-gaza-school-hits-230-sites-in-past-day/> accessed 13 February 2024.

³⁹⁶ See medical shielding section.

³⁹⁷ Daniel Estrin, 'Israeli strike leaves Gaza's oldest mosque in ruins' (*NPR*, 9 December 2023) <www.npr.org/2023/12/09/1218384968/mosque-gaza-omari-israel-hamas-war#:~:text=TEL%20AVIV%2C%20Israel%20%E2%80%94%20The%20Omari,City%20officials%20and%20eyewitnesses%20say> accessed 15 February 2024; Al Jazeera, 'Israeli forces blow up UNRWA school in northern Gaza' (*Al Jazeera*, 12 December 2023) <www.aljazeera.com/program/newsfeed/2023/12/12/israeli-forces-blow-up-unrwa-school-in-northern-gaza> accessed 15 February 2024; Al Jazeera, 'Many killed in Israeli attacks on two schools in northern Gaza' (*Al Jazeera*, 18 November 2023) <www.aljazeera.com/news/2023/11/18/israeli-forces-strike-al-fakhoora-school-in-northern-gaza> accessed 15 February 2024.

³⁹⁸ Al Jazeera, 'Many killed in Israeli attacks on two schools in northern Gaza' (*Al Jazeera*, 18 November 2023) <www.aljazeera.com/news/2023/11/18/israeli-forces-strike-al-fakhoora-school-in-northern-gaza> accessed 15 February 2024.

The legal framework for “human shields”

197. The use of human shields in conflict situations relates to “using the presence (or movements) of civilians or other protected persons to render certain points or areas (or military forces) immune from military operations.”³⁹⁹ The use of human shields is prohibited under international humanitarian law⁴⁰⁰ as it violates the fundamental principle of distinction between combatants and civilians, military objects and civilian objects.⁴⁰¹

198. The use of human shields further violates the right to life,⁴⁰² which entails not only the right not to be arbitrarily deprived of life, but also the protection of such right by the State, or, in the context of belligerent occupations, the Occupying Power who acts as the rights guarantor to the occupied population.⁴⁰³ When this provision is breached, the attacker must take all precautionary measures to minimise or avoid civilian casualties as laid out in Protocol I, article 57 (especially paras 2(a)(i) and (iii), and (c). In particular, a warning has to be issued.⁴⁰⁴

³⁹⁹ International Committee of the Red Cross, *Customary International Humanitarian Law*, Rule 97 (2005); International Committee of the Red Cross, *Third Geneva Convention*, Article 23(1) (12 August 1949); International Committee of the Red Cross, *Fourth Geneva Convention*, Article 28 (12 August 1949); International Committee of the Red Cross, *Additional Protocol I*, Articles 12 and 51(7) (9 June 1977).

⁴⁰⁰ International Committee of the Red Cross, *Customary International Humanitarian Law*, Rule 97 (2005); International Committee of the Red Cross, *Third Geneva Convention*, Article 23(1) (12 August 1949); International Committee of the Red Cross, *Fourth Geneva Convention*, Article 28 (12 August 1949); International Committee of the Red Cross, *Additional Protocol I*, Articles 12 and 51(7) (9 June 1977).

⁴⁰¹ International Committee of the Red Cross, *Customary International Humanitarian Law*, Rule 1 (2005); International Committee of the Red Cross, *Additional Protocol I*, Article 48 (9 June 1977).

⁴⁰² International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) Article 6.

⁴⁰³ International Committee of the Red Cross, *Fourth Geneva Convention*, Articles 47-135 (12 August 1949); Second International Peace Conference, *Hague Convention (IV) Respecting the Laws and Customs of War on Land and Its Annex: Regulations Concerning the Laws and Customs of War on Land*, Article 43 (18 October 1907); Hans-Peter Gasser and Knut Dörmann, ‘Protection of the Civilian Population’ in Dieter Fleck (ed), *Handbook of International Humanitarian Law* (Oxford University Press 2013).

⁴⁰⁴ International Committee of the Red Cross, *Additional Protocol I*, Article 51(7) (9 June 1977); International Committee of the Red Cross, *Commentary of 1987 to Additional Protocol I*, Article 51 (1987).

199. This normative framework aims at safeguarding the sanctity of civilian life even when the competent authorities are not able or willing to do so. Despite the fact that the State of Israel is not a party to Additional Protocol I, rules protecting civilians bear customary character, binding all warring parties.⁴⁰⁵ Furthermore, the foundational principle of proportionality remains relevant even in situations where civilians allegedly used as human shields become the target of a military attack.⁴⁰⁶ Essentially, human shielding cannot serve as a justification for acts constituting war crimes.

200. In the specific case where hospitals are used as shelter for combatants or other military purposes, while their protection ceases, it is paramount that patients and civilians in the hospitals are not held responsible.⁴⁰⁷ Civilians and patients must be safeguarded, this includes the imperative to issue a warning which reasonably allows for the evacuation of civilians, sick and wounded. Only then, can an attack take place.⁴⁰⁸

201. Under International Criminal Law, the use of human shields is a war crime.⁴⁰⁹ The crime of human shielding has two components: first, the act of intentionally co-locating military objectives and civilians, or persons *hors de combat*; and, second, the specific intent of preventing those military objectives from being targeted.

⁴⁰⁵ International Committee of the Red Cross, *Commentary of 1987* to Additional Protocol I, Article 51 (1987); On Israel's stance regarding the prohibition of the use of human shields as reflecting customary law, see also: See Michael N. Schmitt and John J. Merriam, 'The Tyranny of Context: Israeli Targeting Practices in Legal Perspective' (2015) 37(1) *U. Pa. J. Int'l L.* 53.

⁴⁰⁶ International Committee of the Red Cross, *Additional Protocol I*, Article 51(8) (9 June 1977).

⁴⁰⁷ International Committee of the Red Cross, *Fourth Geneva Convention*, Article 19 (12 August 1949); International Committee of the Red Cross, *Additional Protocol I*, Article 12(4) (9 June 1977).

⁴⁰⁸ International Committee of the Red Cross, *Fourth Geneva Convention*, Article 19 (12 August 1949); International Committee of the Red Cross, *Additional Protocol I*, Article 12(4) (9 June 1977).

⁴⁰⁹ International Committee of the Red Cross, *Fourth Geneva Convention*, Article 19 (12 August 1949); International Committee of the Red Cross, *Additional Protocol I*, Article 12(4) (9 June 1977); ICC Statute, Article 8(2)(b)(xxiii).

The changing definition of “human shields”

202. The use of human shields is a war crime.⁴¹⁰ However, accusations of human shielding can also operate to adjust how the balance between military attack and civilian harm is computed, so as to legitimise greater civilian casualties.⁴¹¹

203. The history of the use of the legal category of human shields shows that this accusation has been utilised in many asymmetric conflicts, including contexts of Third World national liberation (Ethiopia, Algeria, Vietnam) and contemporary occupation (Iraq, Afghanistan, Yemen) to justify heavy civilian casualties.⁴¹² As warfare over the 20 and 21st century shifted progressively into urban contexts, combatants increasingly embedded themselves within civilian populations.⁴¹³ As a result, it was more difficult to apply frameworks of ‘human shielding’ and more difficult to distinguish between civilians and combatants within traditional IHL and IL frameworks.

204. Consequently, instead of referring to particular individuals or groups who are deployed by combatants as barriers against attacks, accusations of human shielding increasingly designate populations that ‘get in the way’ of effective military action, by virtue of their proximity to combatants. These individuals - referred to in academic discourse as

⁴¹⁰ Stéphanie Bouchié de Belle, ‘Chained to cannons or wearing targets on their T-shirts: human shields in international humanitarian law’ (2008) 90(872) *International Review of the Red Cross*, 886

<www.icrc.org/en/doc/assets/files/other/irrc-872-bouchie-de-belle.pdf> accessed 15 February 2024:

“Finally, in the 1998 Rome Statute of the International Criminal Court, the use of human shields during an international armed conflict is classified as a war crime (Article 8(2)(b)(xxiii)).”

⁴¹¹ N Gordon and N Perugini, *Human Shields: A History of People in the Line of Fire* (University of California Press 2020) 137.

⁴¹² N Gordon and N Perugini, *Human Shields: A History of People in the Line of Fire* (University of California Press 2020) 137.

⁴¹³ On 21st century patterns: Philippe Michel-Kleisbauer, ‘Urban Warfare’ (2020) *Nato Parliamentary*

Assembly <www.nato-pa.int/download-file?filename=/sites/default/files/2020-12/040%20STCTTTS%2020%20E%20rev%202%20fin%20-%20REPORT%20-%20URBAN%20WARFARE_o.pdf> accessed 15 February 2024;

A Sampaio, M Kaldor, and S Sassen, ‘Urbanisation and its impact on war’ (*International Institute for Strategic Studies*, 4 August 2020)

<www.iiss.org/events/2020/08/urbanisation-and-war> accessed 15 February 2024: “From the 20th century, however, wars have been fought within cities – seen recently in urban conflicts involving non-state armed groups in Iraq, Syria and Libya.”

‘proximate human shields’ - become justified casualties simply by *being too close* to legitimate military targets.

205. A search in major English newspapers for the phrase ‘human shields’ from November 2015 through October 2016 reveals that proximate shields have become by far the most prominent type of shield in contemporary discourse on war. Of the 1,221 articles that mention human shields during this period, 65 describe voluntary shields, 272 depict involuntary shields, and 731 portray civilians who were cast as human shields because they lived in the midst of the fighting, while another 153 use the phrase as a metaphor. Within this, there are references to seven voluntary shields, 9,456 involuntary shields, and 3,354,800 proximate shields. The percentage of voluntary human shields is negligible, and involuntary shields account for only 0.2 per cent, while proximate shields comprise over 99 per cent of the civilians who are characterised as shields.⁴¹⁴

206. Through the category of ‘proximate human shields’ and the accusation of ‘civilianizing’ armed conflicts, entire populations are framed as participants in hostilities, shifting responsibility for their deaths to the combatants using them as shields, and away from the actions of the attacking party.

207. In other words, while the use of human shielding *itself* is certainly a war crime, the accusation of human shielding can also be *mobilised to justify war crimes and genocide*.⁴¹⁵ Its use by Israeli officials to this end is well documented.

⁴¹⁴ N Gordon and N Perugini, ‘Proximate ‘human shields’ and the challenge for humanitarian organizations’ (*Humanitarian Law & Policy Blog*, 18 November 2021) <<https://blogs.icrc.org/law-and-policy/2021/11/18/proximate-human-shields/>> accessed 15 February 2024.

⁴¹⁵ N Gordon and N Perugini, ‘Proximate ‘human shields’ and the challenge for humanitarian organizations’ (*Humanitarian Law & Policy Blog*, 18 November 2021) <<https://blogs.icrc.org/law-and-policy/2021/11/18/proximate-human-shields/>> accessed 15 February 2024

5.3.1 Historical Pattern for Israeli leaders using ‘Human Shields’ to justify War Crimes

208. The leaders of the State of Israel have historically and consistently portrayed the Palestinian civilian population, including women and children, as ‘human shields’ in every military offensive it has launched against Gaza since the Israeli air, land and maritime siege of the Strip was enforced in 2007 (including the invasions of 2008-2009, 2012, 2014, and 2021).

209. United Nations Independent Commissions of Inquiry appointed after each offensive, and investigations concluded by international human rights monitors such as Amnesty International have refuted these claims and have also expressed concerns that Israel has fabricated evidence to support its accusations that Palestinian resistance groups use schools, hospitals, and other civilian infrastructures, as well as Palestinian civilians as human shields.⁴¹⁶

210. Since 2007, the Government of Israel and its military have launched six major offensives against Gaza (2008-2009, 2012, 2014, 2021, 2022, and 2023). Between 2008 and September 2023, Israel’s use of force had killed 5,356 Palestinians, including 1,205 children, in Gaza.⁴¹⁷ It has destroyed or damaged hundreds of thousands of civilian

⁴¹⁶ OHCHR, ‘Implementation of Human Rights Council resolutions S-9/1 and S-12/1 - Report of the United Nations High Commissioner for Human Rights’ (28 April 2022) UN Doc A/HRC/49/83 para 25; UNGA ‘Report of the United Nations Fact Finding Commission on the Gaza Conflict’ (25 September 2009) UN Doc A/HRC/12/48 para 1431; OHCHR, ‘Report of the detailed findings of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1’ (24 June 2015) UN Doc A/HRC/29/52 para 71; OHCHR, ‘Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1’ (6 March 2013) UN Doc A/HRC/22/35/Add.1, para 10.

⁴¹⁷ United Nations OCHA, ‘Data on Casualties’ (OCHA) <www.ochaopt.org/data/casualties> accessed 15 February 2024.

structures, including at least 49,532 housing units,⁴¹⁸ and 120 medical facilities.⁴¹⁹ In addition, Israel has destroyed registries, libraries, and other record holding buildings.⁴²⁰ Israel has justified this use of force, which falls outside the perimeter of law enforcement operations allowed under international humanitarian law to an Occupying Power, by contending that Palestinian armed groups use the entire Palestinian civilian population as human shields.

211. Following the 2008-2009 military campaign launched by Israel in Gaza (Operation Cast Lead), in which 1,166-1,417 Palestinians were killed, a United Nations Commission of Inquiry expressed concerns regarding the potential fabrication of Israel's allegations asserting the use of schools and hospitals as human shields by Palestinian armed groups in Gaza.⁴²¹ Israel's acknowledgment that the images provided to the fact-finding mission

⁴¹⁸ Al Mezan Center for Human Rights, 'Destruction of Residential Houses' (*Al Mezan Center for Human Rights*) <[mezan.org/en/page/20/Destruction-of-Residential-Houses](https://www.mezan.org/en/page/20/Destruction-of-Residential-Houses)> accessed 15 February 2024; via [Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese | A/78/545](#) para 67.

⁴¹⁹ OCHA, 'Protection of Civilians Weekly Report: 16-20 January 2009' (*OHCA*) <web.archive.org/web/20100706072645/http://www.ochaopt.org/documents/ocha_opt_protection_of_civilians_weekly_2009_01_20_english.pdf> accessed 17 February 2024; Al Mezan Center for Human Rights, 'Statistical Report on Persons Killed and Property Damaged in Gaza by the Israeli Occupation Forces during "Operation Pillar of Cloud"', (*Al Mezan Center for Human Rights*, June 2013) <<https://web.archive.org/web/20160206080414/http://www.mezan.org/en/uploads/files/17207.pdf>> accessed 17 February 2014; The Applied Research Institute Jerusalem, 'Preliminary Assessment for Gaza Strip Assault 2014', (*Applied Research Institute Jerusalem*, UNDP, August 2014) <www.un.org/unispal/wp-content/uploads/2021/09/UNDPGAZAASSESS_230914.pdf> accessed 17 February 2024, 7; OCHA, 'Escalation in Gaza and Israel | Flash Update #2 as of 18:00, 8 August 2022' (*OCHA*, 8 August 2022) <www.ochaopt.org/content/escalation-gaza-strip-and-israel-flash-update-2-august-2022> accessed 17 February 2024; OCHA, 'Overview: The Humanitarian Bulletin | Gaza after the May escalation - November 2021' (*OCHA*, 3 November 2021) <www.ochaopt.org/content/overview-november-2021> accessed 17 February 2024.

⁴²⁰ International Board on Books for Young People, 'IBBY Children in Crisis: Gaza Libraries' (*IBBY*, 2021) <<https://www.ibby.org/awards-activities/ibby-children-in-crisis-fund/ibby-children-in-crisis-gaza-libraries>> accessed 17 February 2024; Bilge Nesibe Kotan, 'The destruction of a famed Gaza bookstore severs crucial lifeline' (*TRT World*, 2021) <<https://www.trtworld.com/magazine/the-destruction-of-a-famed-gaza-bookstore-severs-a-crucial-lifeline-46866>> accessed 15 February 2024.

⁴²¹ UNGA 'Report of the United Nations Fact Finding Commission on the Gaza Conflict' (25 September 2009) UN Doc A/HRC/12/48 para 476, 478, 479-482; See also: UNGA 'Report of the United Nations Fact Finding

were not from the 2008-2009 Israeli offensive further raises concerns about the veracity of such claims.⁴²²

212. Subsequent Commissions of Inquiry charged with investigating Israel's offensives on Gaza uncovered how Palestinians have been targeted with excessive force, including the use of White Phosphorus.⁴²³ This was often despite the fact that those targeted were not posing any threat,⁴²⁴ in some instances even as they were standing "in front of a clinic while attempting to leave the village holding white flags".⁴²⁵

213. Israel has also launched attacks against densely populated residential areas,⁴²⁶ during the night where entire Palestinian families were sleeping,⁴²⁷ with no opportunity to seek refuge. In 2022, falsely claiming that 'rockets were being launched from Gaza' - a claim later retracted by the Israeli military itself ⁴²⁸ - Israeli forces fired a missile from a drone

Commission on the Gaza Conflict' (25 September 2009) UN Doc A/HRC/12/48 paras 36, 55, 60, 382, 391-392, 522, 629, 1026-1027, 1214-1215, 1883, 1888-1093, 1905, 1927 and 192.

⁴²² OHCHR, 'Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967' (20 October 2023) UN Doc A/78/545, para 34; See also: UNGA 'Report of the United Nations Fact Finding Commission on the Gaza Conflict' (25 September 2009) UN Doc A/HRC/12/48 para 449-452.

⁴²³ UNGA 'Report of the United Nations Fact Finding Commission on the Gaza Conflict' (25 September 2009) UN Doc A/HRC/12/48 paras 38-40, 48; On white phosphorus: Human Rights Watch, 'Rain of fire: Israel's Unlawful Use of White Phosphorus in Gaza' (*Human Rights Watch*, 25 March 2009) <www.hrw.org/report/2009/03/25/rain-fire/israels-unlawful-use-white-phosphorus-gaza> accessed 15 February 2024.

⁴²⁴ OHCHR, 'Addendum - The human rights situation in the Occupied Palestinian Territory between 12 June and 26 August 2014, including the escalation in hostilities between the State of Israel and Palestinian armed groups in Gaza' (26 December 2014) UN Doc A/HRC/28/80/Add.1, para 43.

⁴²⁵ OHCHR, 'Implementation of Human Rights Council resolutions S-9/1 and S-12/1 - Report of the United Nations High Commissioner for Human Rights' (28 April 2022) UN Doc A/HRC/49/83 para 59.

⁴²⁶ OHCHR, 'Implementation of Human Rights Council resolutions S-9/1 and S-12/1 - Report of the United Nations High Commissioner for Human Rights' (28 April 2022) UN Doc A/HRC/49/83 paras 9-10.

⁴²⁷ Amnesty International, 'Israel/OPT: Civilian deaths and extensive destruction in latest Gaza offensive highlight human toll of apartheid' (*Amnesty International*, 13 June 2023)

<www.amnesty.org/en/latest/news/2023/06/israel-opt-civilian-deaths-and-extensive-destruction-in-latest-gaza-offensive-highlight-human-toll-of-apartheid/> accessed 15 February 2024.

⁴²⁸ Yaniv Kubovich, 'Israeli Strike Killed 5 Gaza Children, Officials Admit, After Initially Blaming Islamic Jihad' *Haaretz* (Tel Aviv, 16 August 2022) <www.haaretz.com/israel-news/2022-08-16/ty-

against the Al-Fallujah cemetery, which claimed the lives of five Palestinian children who were playing, in the absence of any armed activity in the area.⁴²⁹

214. During the 2014 military offensive launched by the Israeli military, Israeli Prime Minister Benjamin Netanyahu stated that it would be a “moral mistake” as well as a practical one to not take action against terrorists operating from mosques, schools and other civilian areas.⁴³⁰ Between 2,125⁴³¹ and 2,310⁴³² Palestinians in Gaza were killed during the conflict, of which 1,462 are believed to be civilians, including 551 children and 299 women.⁴³³ Between 10,626⁴³⁴ and 10,895⁴³⁵ were wounded (including 3,374 children, of

[article/.highlight/after-initial-denial-israeli-officials-admit-5-palestinian-minors-killed-in-gaza-strike/00000182-a2b6-d825-a5a7-aaf6d3320000](#)> accessed 15 February 2024

⁴²⁹ Amnesty International, ‘They were just kids’: Evidence of War Crimes During Israel’s August 2022 Gaza Offensive’ (*Amnesty International*, October 2022) <www.amnesty.org.uk/files/2022-10/Gaza%20Offensive.pdf?VersionId=f4059c6Vn1FMnx5KvdJbnqVxAhXVvhVR#:~:text=On%205%20August%202022%2C%20Israel.five%20children%20at%20a%20cemetery.> accessed 15 February 2024.

⁴³⁰ Raphael Ahren, ‘Netanyahu lays out Israeli case for legality of Gaza campaign’ *The Times of Israel* (Jerusalem, 6 August 2014) <www.timesofisrael.com/netanyahu-lays-out-case-for-legality-of-gaza-campaign/> accessed 15 February 2024; see also <www.youtube.com/watch?v=9LaSKALEpa8> (the video quoted in the article).

⁴³¹ Israel Ministry of Foreign Affairs, ‘Annex: Palestinian Fatality Figures in the 2014 Gaza Conflict’ from ‘The 2014 Gaza Conflict: Factual and Legal Aspects’ (*Ministry of Foreign Affairs*, 14 June 2015) <<https://mfa.gov.il/ProtectiveEdge/Documents/2014GazaConflictFullReport.pdf>> accessed 17 February 2024, 266-277.

⁴³² Ma’an News Agency, ‘Ministry: Death toll from Gaza offensive topped 2,310’, (*Ma’an News Agency*, 3 January 2015) <<https://web.archive.org/web/20150111023729/http://www.maannews.net/eng/ViewDetails.aspx?ID=751290>> accessed 17 February 2024.

⁴³³ UNRWA, ‘2014 Gaza Conflict’ (*UNRWA*) <www.unrwa.org/2014-gaza-conflict> accessed 17 February 2024.

⁴³⁴ Ma’an News Agency, ‘Ministry: Death toll from Gaza offensive topped 2,310’, (*Ma’an News Agency*, 3 January 2015) <<https://web.archive.org/web/20150111023729/http://www.maannews.net/eng/ViewDetails.aspx?ID=751290>> accessed 17 February 2024.

⁴³⁵ Palestinian Centre for Human Rights, ‘Statistics: Victims of the Israeli Offensive on Gaza since 8 July 2014’, (*PCHR*, 16 September 2014) <https://web.archive.org/web/20150626164255/http://www.pchrgaza.org/portal/en/index.php?option=com_content&view=article&id=10491:statistics-victims-of-the-israeli-offensive-on-gaza-since-08-july-2014&catid=145:in-focus> accessed 17 February 2024.

whom over 1,000 were left permanently disabled).⁴³⁶ 67 Israeli soldiers, and 5 Israeli civilians (including one child) were killed.⁴³⁷ Netanyahu stated that Israel's actions were "justified and proportionate", and laid blame for the number of civilian casualties on Hamas's use of Palestinians in Gaza as human shields.⁴³⁸

215. These accusations have been disputed: a report from Amnesty International dated June 25, 2014 stated that it "does not have evidence at this point that Palestinian civilians have been intentionally used by Hamas or Palestinian armed groups during the current hostilities to "shield" specific locations or military personnel or equipment from Israeli attacks".⁴³⁹ The BBC's Middle East editor Jeremy Bowen wrote on June 24, 2014 that "I saw no evidence of Hamas using Palestinians as human shields".⁴⁴⁰

216. Even when Palestinians in Gaza have tried to exercise their fundamental freedoms, Israel has been using lethal force against them. Notably, during the Great March of Return - when Palestinians peacefully protested Israel's siege and denial of their right to return every week in 2018 and 2019, marching towards the fence that separates them from their

⁴³⁶ Defence for Children International- Palestine, 'Operation Protective Edge: A war waged on Gaza's children' (Defence for Children International-Palestine, 16 April 2015) <<http://www.dci-palestine.org/sites/default/files/operationprotectiveedge.awarwagedonchildren.160415.pdf>> accessed 15 February 2024.

⁴³⁷ OCHA, 'Occupied Palestinian Territory: Gaza Emergency - Situation Report as of 4 September 2014' (OCHA, 4 September 2014) <https://web.archive.org/web/20140913014525/http://www.ochaopt.org/documents/ocha_opt_sitrep_04_09_2014.pdf> accessed 17 February 2024.

⁴³⁸ Raphael Ahren, 'Netanyahu lays out Israeli case for legality of Gaza campaign' *The Times of Israel* (Jerusalem, 6 August 2014) <www.timesofisrael.com/netanyahu-lays-out-case-for-legality-of-gaza-campaign/> accessed 15 February 2024; see also <www.youtube.com/watch?v=9LaSKALEpa8> (the video quoted in the article).

⁴³⁹ Amnesty International, 'Israel and the Occupied Palestinian Territories: Israel/Gaza conflict, July 2014' (Amnesty International, 25 July 2014) <www.amnesty.org/en/documents/mde15/017/2014/en/> accessed 15 February 2024.

⁴⁴⁰ Jeremy Bowen, 'Jeremy Bowen's Gaza notebook: I saw no evidence of Hamas using Palestinians as human shields' (*The New Statesman*, 22 July 2014) <<https://www.newstatesman.com/world/2014/07/jeremy-bowens-gaza-notebook-i-saw-no-evidence-hamas-using-palestinians-human>> accessed 15 February 2024; See also: Harriet Sherwood, 'In Gaza, Hamas fighters are among civilians. There is nowhere else for them to go' *The Guardian* (London, 24 July 2014) <<https://www.theguardian.com/world/2014/jul/24/gaza-hamas-fighters-military-bases-guerrilla-war-civilians-israel-IDF>> accessed 15 February 2024

ancestral lands - the Israeli military systematically opened fire against them, killing 223 Palestinians, including 46 children, injuring 36,100, of whom 7,996 were wounded by live ammunition, and leaving many with permanent disabilities.⁴⁴¹

217. Israel's justification for employing lethal force against peaceful protesters relied on various rhetorical strategies centred around accusations of human shielding. This encompassed the circulation of IOF-edited video clips depicting children within the demonstrations, purportedly serving as conclusive evidence of their deployment as human shields.⁴⁴²

218. As previously concluded by the 2009 United Nations Commission, Israel appears to have fabricated evidence again: notably, the Israeli Forces Twitter account circulated a video portraying Palestinian paramedic Razan al-Najjar, shot dead by Israeli snipers, asserting her voluntary role as a "human shield."⁴⁴³ However, the Israeli-edited clip deliberately omitted part of the interview where Najjar explained the rationale behind her use of the term human shielding, namely shielding the wounded as an inherent responsibility of professional duties.⁴⁴⁴

⁴⁴¹ B'Tselem and Palestinian Centre for Human Rights, *'Unwilling and Unable: Israel's Whitewashed Investigation of the Great March of Return Protests'* (B'Tselem and Palestinian Centre for Human Rights, December 2021)

<https://www.btselem.org/sites/default/files/publications/202112_unwilling_and_unable_eng.pdf>

accessed 15 February 2024; United Nations OCHA, 'Two Years On: People Injured and Traumatized During the "Great March of Return" are Still Struggling' (*United Nations*, 6 April 2020)

<<https://www.un.org/unispal/document/two-years-on-people-injured-and-traumatized-during-the-great-march-of-return-are-still-struggling/>> accessed 15 February 2024.

⁴⁴² Israel Defence Forces, 'Do you know where your children are?' (Twitter, 14 May 2018)

<<https://x.com/IDF/status/996051651399208960?s=20>> accessed 17 February 2024.

⁴⁴³ Israel Defence Forces, ' Hamas' use of human shields must stop' (Twitter, 7 June 2018)

<<https://twitter.com/IDF/status/1004671844501385216>> accessed 17 February 2024; N Gordan and N

Perugini, 'The fallacy of Israel's human shields claim in Gaza' (*Al Jazeera*, 18 June 2018)

<www.aljazeera.com/opinions/2018/6/18/the-fallacy-of-israels-human-shields-claims-in-gaza> accessed 15 February 2024.

⁴⁴⁴ Al Mayadeen TV, *وأنا المسعفة رزان النجار.. وهذه رسالتي*, 'I am paramedic Razan Al-Najjar... and this is my message' (Facebook, 3 June 2018) <www.facebook.com/watch/?v=2602753209750212> accessed 17 February 2024;

The Independent, 'Israeli army edits video of Palestinian medic its troops shot dead to misleadingly show she

219. The United Nations Commission of Inquiry on the Great March of Return did not even consider these claims as credible evidence to be further investigated and concluded that “victims who were hundreds of metres away from the Israeli forces and visibly engaged in civilian activities were shot, as shown by eyewitness accounts, video footage and medical records. Journalists and medical personnel who were clearly marked as such were shot, as were children, women, and persons with disabilities”⁴⁴⁵ and that “the Israeli security forces killed and maimed Palestinian demonstrators who did not pose an imminent threat of death or serious injury to others when they were shot, nor were they directly participating in hostilities.”⁴⁴⁶

220. Independent investigations by human rights groups further unveiled that Israel deployed a “shoot to cripple” policy, aimed at intentionally disabling Palestinians⁴⁴⁷ as also confirmed by Israeli soldiers who took part in the military activities against protestors in 2018-2019.⁴⁴⁸ Further investigations from human rights organisations

was ‘human shield for Hamas’ *The Independent* (London, 11 June 2018)

<www.independent.co.uk/news/world/middle-east/gaza-protests-latest-IDF-condemned-edited-video-angel-of-mercy-medic-razan-al-najjar-a8389611.html> accessed 15 February 2024.

⁴⁴⁵ OHCHR, ‘Report of the independent international commission of inquiry on the protests in the Occupied Palestinian Territory’ (25 February 2019) UN Doc A/HRC/40/74, para 95 <www.ohchr.org/en/hr-bodies/hrc/co-iopt/report2018-opt> accessed 15 February 2024.

⁴⁴⁶ OHCHR, ‘Report of the independent international commission of inquiry on the protests in the Occupied Palestinian Territory’ (25 February 2019) UN Doc A/HRC/40/74, para 96 <www.ohchr.org/en/hr-bodies/hrc/co-iopt/report2018-opt> accessed 15 February 2024.

⁴⁴⁷ Amnesty International, ‘Israel: ‘Deliberate attempts’ by military to kill and maim Gaza protesters continues’ (*Amnesty International*, 27 April 2018) <www.amnesty.org.uk/press-releases/israel-deliberate-attempts-military-kill-and-maim-gaza-protesters-continues> accessed 15 February 2024; B’Tselem & Palestinian Centre for Human Rights, ‘Unwilling and Unable: Israel’s Whitewashed Investigations of the Great March of Return Protests’ (*B’Tselem* and *PCHR*, December 2021), 6.

⁴⁴⁸ Hilo Glazer, ‘42 Knees in One Day’: Israeli Snipers Open Up About Shooting Gaza Protesters’ *Haaretz* (Tel Aviv, 6 May 2020) <<https://www.haaretz.com/israel-news/2020-03-06/ty-article-magazine/.highlight/42-knees-in-one-day-israeli-snipers-open-up-about-shooting-gaza-protesters/0000017f-f2da-d497-a1ff-f2dab2520000>> accessed 15 February 2024.

Amnesty International and Human Rights Watch found that there was little evidence to suggest Hamas were using Palestinian civilians as human shields.⁴⁴⁹

221. Israel's use of the 'human shield' argument is foundational to its military tactics against the Palestinian people in Gaza. By stripping them of their protected status of civilians, this narrative aims at justifying the deliberate and intentional military targeting of civilians in Gaza.⁴⁵⁰

The use of the 'Human shield' justification since October 7, 2023

222. Since October 7 2023, Israel has continued to justify the escalation of violence against civilians and life-sustaining infrastructures in Gaza through accusations of human shielding.

- The bombing of Al Shifa Hospital, November 2023 (dealt with in more detail below): Israeli PM Benjamin Netanyahu justified the highly controversial military action on the grounds that there were strong indications that Hamas were keeping hostages and weapons in the hospital.⁴⁵¹

⁴⁴⁹ Amnesty International, 'Operation 'Cast Lead': 22 Days of Death and Destruction' (*Amnesty International*, 2009) <www.amnesty.org/en/wp-content/uploads/2021/06/mde150152009en.pdf> accessed 15 February 2024; Human Rights Watch, 'White Flag Deaths: Killings of Palestinian Civilians during Operation Cast Lead' (*Human Rights Watch*, 13 August 2009) <www.hrw.org/report/2009/08/13/white-flag-deaths/killings-palestinian-civilians-during-operation-cast-lead> accessed 15 February 2024.

⁴⁵⁰ N Gordon and N Perugini, 'The politics of human shielding: On the resignification of space and the constitution of civilians as shields in liberal wars' (2015) 34(1) *Environment and Planning D: Society and Space*, p 182-183

⁴⁵¹ Caitlin Yelik, 'Netanyahu says there were "strong indications" Hamas hostages were held in Gaza's Al-Shifa Hospital' (*CBS News*, 16 November 2023) <www.cbsnews.com/news/benjamin-netanyahu-hamas-hostages-gaza-al-shifa-hospital/> accessed 15 February 2024; See also: Tovah Lazaroff, 'Netanyahu: Strong indications Hamas kept hostages at Al-Shifa hospital' (*The Jerusalem Post*, 16 November 2023) <www.jpost.com/breaking-news/article-773660> accessed 15 February 2024.

However these grounds have been called into question by independent investigations from the Guardian,⁴⁵² and the Washington Post,⁴⁵³ while the United Nations High Commissioner for Human Rights has called for an independent investigation into the claims.⁴⁵⁴

- 15.10.23 Defense Minister Yoav Gallant hosts Delegation of US Senators | Government Press Office: “Minister Gallant presented the senators with images depicting Hamas actively preventing civilians from evacuating military targets and hotspots of terror infrastructure, in order to increase human casualties and use the Palestinians as human shields”.⁴⁵⁵
- 30.10.23 Statement by PM Netanyahu | Prime Minister's Office: Netanyahu: While Israel is doing everything to get Palestinian civilians out of harm’s way, Hamas is doing everything to keep Palestinian civilians in harm’s way. Israel urges Palestinian civilians to leave the areas of armed conflict, while Hamas prevents those civilians from leaving those areas at gunpoint. Hamas is also preventing foreign nationals from leaving Gaza altogether.⁴⁵⁶
- 5.11.23 Israel's official Arabic social media account shared a cartoon that contrasts the upbringing of Israeli babies with "love" against the portrayal of Gaza babies being filled with "hate" by Hamas. The cartoon depicts an Israeli baby with a serene expression as

⁴⁵² Julian Borger, ‘IDF evidence so far falls well short of al-Shifa hospital being Hamas HQ’ *The Guardian* (London, 17 November 2023) <www.theguardian.com/world/2023/nov/17/IDF-evidence-so-far-falls-well-short-of-al-shifa-hospital-being-hamas-hq> accessed 15 February 2024.

⁴⁵³ Lousia Lovelock and others, ‘The case of Al-Shifa: Investigating the assault on Gaza’s largest hospital’ *The Washington Post* (Washington, 21 December 2023) <www.washingtonpost.com/world/2023/12/21/al-shifa-hospital-gaza-hamas-israel/> accessed 17 February 2024.

⁴⁵⁴ Andrew Carey and David Shortell, ‘UN Human Rights chief calls for independent investigation into Al-Shifa hospital claims’ (CNN, 17 November 2023) <<https://edition.cnn.com/2023/11/17/middleeast/israel-alleged-hamas-tunnel-al-shifa-intl-hnk/index.html>> accessed 17 February 2024.

⁴⁵⁵ Government of Israel, ‘Defense Minister Yoav Gallant hosts Delegation of US Senators’ (Prime Minister’s Office, Government Press Office, 15 October 2023) <www.gov.il/en/Departments/news/1swordsofiron151023> accessed 17 February 2024.

⁴⁵⁶ Government of Israel, ‘Statement by PM Netanyahu’ (Prime Minister’s Office, 30 October 2023) <www.gov.il/en/departments/news/event-statement301023> accessed 18 February 2024.

love is poured into their mind, while the Palestinian baby is depicted with a face full of anger and hatred as hate is poured into their mind.⁴⁵⁷

- 06.11.23 PM Netanyahu meets with Bulgarian Prime Minister Nikolay Denkov | Ministry of Foreign Affairs: “We also are fighting an enemy, this most savage enemy that we have seen since the Holocaust, that commits a double war crime: not only deliberately targeting civilians but deliberately using their civilians as human shields. And while Israel is doing everything in its power to get the civilians out of harm's way, Hamas is doing everything in its power to keep them in harm's way, sometimes as gunpoint”.⁴⁵⁸
- 17.11.23 Rami Igra, former head of Mossad MIA unit, interviewed by Anderson Cooper | CNN
 - a. 0.46 “there is no way we can eradicate Hamas without dealing with most of its forces that have fled to the south”
 - b. 0.55 "The noncombatant population in Gaza is really a nonexistent term because all of the Gazans voted for Hamas, and as we have seen on 7th of October most of the population in Gaza are Hamas."⁴⁵⁹
- 06.12.23 (updated 08.12.23) Hamas-Israel Conflict 2023: Frequently Asked Questions | Ministry of Foreign Affairs
 - a. The “brutal massacre of October 7 initiated armed hostilities in which Hamas has sought to use the Palestinians civilian population as its shield.” is the cause

⁴⁵⁷ @IsraelArabic (Twitter, 5 November 2023)

<<https://twitter.com/IsraelArabic/status/1721055339376730388>> accessed 18 March 2024.

⁴⁵⁸ Government of Israel, ‘PM Netanyahu meets with Bulgarian Prime Minister Nikolay Denkov’ (Ministry of Foreign Affairs, 6 November 2023) <www.gov.il/en/Departments/news/pm-netanyahu-meets-with-bulgarian-prime-minister-nikolay-denkov-6-nov-2023> accessed 18 February 2024.

⁴⁵⁹

https://archive.org/details/CNNW_20231118_050000_Anderson_Cooper_360/start/660/end/720 see also Joshua P Hill, ‘Anderson Cooper's guest tonight, former Israeli intelligence chief...’ (Twitter, 18 November 2023) <<https://twitter.com/joshuaphill/status/1725720072641990675?s=46&t=-L6OmjxEmW10yAwWc2vHgA>> accessed 18 February 2024.

of Palestinian civilian casualties (Q2), and that “... while the IDF is bound to mitigate civilian harm in accordance with the law of armed conflict, it is first and foremost Hamas that bears the responsibility for the widespread suffering it has caused by instigating the hostilities on October 7 and using civilians as human shields.” (Q3).

- b. In response to the charge of collective punishment, Israel again deploys the ‘human shield’ accusation - “...The party guilty of the suffering of civilians in Gaza is Hamas, who in its words and actions demonstrates its willingness to sacrifice Palestinian civilians for its genocidal agenda.” (Q7).
- c. And in response to the charge of genocide - “Israel is at war with Hamas, not with the people of Gaza. It is committed to conducting its operations in accordance with international law (see here and here) and wishes no harm to Palestinian civilians anywhere. In accordance with the law of armed conflict, and at considerable risk to its own military operations, Israel is seeking to minimise any injury that might be caused to civilians in Gaza as a result of the hostilities instigated by Hamas, even as Hamas seeks to maximise such harm, and pursues the abhorrent strategy of systematically using civilians as human shields and using protected and sensitive sites such as civilian infrastructure, schools, mosques, ambulances and hospitals for military purposes” (Q10).

The balance between military action and civilian harm (the principle of proportionality) is also addressed by Israel: “Proportionality under international law is not tit for tat. Israel’s actions are proportionate to the grave threat it faces, and comply with the legal requirement that the expected civilian harm resulting from an attack not be excessive in relation to the anticipated military advantage that is being sought” (Q8).⁴⁶⁰

⁴⁶⁰ Government of Israel, ‘Hamas-Israel Conflict 2023: Frequently Asked Questions’ (Ministry of Foreign Affairs, 8 December 2023) <www.gov.il/en/Departments/General/swords-of-iron-faq-6-dec-2023> accessed 18 February 2024.

- 29.12.23 MFA response to South African appeal to the CIJ | Ministry of Foreign Affairs
 - d. “The Hamas terrorist organization - which is committing war crimes, crimes against humanity and tried to commit genocide on October 7 - is responsible for the suffering of the Palestinians in Gaza by using them as human shields and stealing humanitarian aid from them.”⁴⁶¹

- 31.12.2023 PM Netanyahu's Remarks at the Start of the Government Meeting | Prime Minister's Office
 - e. “I would like to say a word about South Africa's mendacious pontificating to the effect that Israel 'is perpetrating genocide.' No, South Africa, it is not we who have come to perpetrate genocide, it is Hamas. It would murder all of us if it could. In contrast, the IDF is acting as morally as possible; it is doing everything to avoid harming civilians while Hamas is doing everything to harm them and is using them as human shields”.⁴⁶²

- 04.01.24 Swords of Iron: War in the South - Hamas’s Attack on Israel | Ministry of Foreign Affairs
 - f. “Hamas’s leadership bears full responsibility for the current deterioration and for the actions Israel must take in response. Israel will do everything necessary to protect its citizens and its territory.”⁴⁶³

⁴⁶¹ Government of Israel, ‘MFA response to South African appeal to the CIJ’ (Ministry of Foreign Affairs, 29 December 2023) <www.gov.il/en/Departments/news/mfa-response-to-south-african-appeal-to-the-cij-29-dec-2023> accessed 18 February 2024.

⁴⁶² Government of Israel, ‘PM Netanyahu's Remarks at the Start of the Government Meeting’ (Prime Minister’s Office, 31 December 2023) <www.gov.il/en/Departments/news/spoke-start311223> accessed 18 February 2024.

⁴⁶³ Government of Israel, ‘Swords of Iron: War in the South - Hamas’ Attack on Israel’ (Ministry of Foreign Affairs, 6 February 2024) <www.gov.il/en/Departments/news/swords-of-iron-war-in-the-south-7-oct-2023> accessed 18 February 2024.

223. Crucially, this extensive framing covers the entire population of Gaza – in a paper released by the Israeli Ministry of Foreign Affairs on November 2, 2023 the following claims are made to this effect:

1. Refers to ‘the residents of Gaza as human shields’
2. States that Hamas ‘exploits the civilian population as human shields’
3. That ‘(G)iven this reprehensible strategy, many ostensibly civilian objects may become legitimate targets’
4. And ‘(A)s a result, it cannot be concluded from the mere fact that seeming “civilians” or “civilian objects” have been targeted, that an attack was unlawful.’⁴⁶⁴

224. The broad-brush rhetoric of ‘the’ residents and ‘the’ civilian population transforms the entire group into legitimate military targets. Once again, this process of “decivilianisation” lays foundations for the justification of mass civilian casualties and mass infrastructural destruction that would typically fall within the actus reus of Genocide.

5.3.2 Safe Zones

225. The designation of ‘safe zones’ in Gaza presents a further development in Israel’s military strategy. Official state of Israel broadcasts claim that creating safe zones minimises casualties by providing points of refuge for civilians to move towards.⁴⁶⁵ Those who remain in their homes, or cannot leave, are subsequently categorised as voluntary

⁴⁶⁴ Ministry of Foreign Affairs of Israel, ‘ Hamas-Israel Conflict 2023: Key Legal Aspects’ (*Ministry of Foreign Affairs*, 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 18 February 2024, 1, 7, 9, 2.

⁴⁶⁵ Israel Ministry of Foreign Affairs, ‘ Hamas-Israel Conflict 2023: Frequently Asked Questions’ (*Ministry of Foreign Affairs*, 8 December 2023) <www.gov.il/en/Departments/General/swords-of-iron-faq-6-dec-2023#2> accessed 18 February 2024.

human shields for Hamas, transformed into legitimate military targets, and when killed, their deaths are justified on this basis.⁴⁶⁶

226. The mobilisation of discourse around both human shields and safe zones thus creates plausible deniability of genocidal intent for Israeli leaders and officials. As such, safe zones have become an instrument for the organisation of lethal violence used by Israel against the civilian population on a mass scale.⁴⁶⁷

227. However, there is also widespread evidence that safe zones themselves are targeted in strikes, resulting in further civilian casualties:

- On October 13, 2023, 1.1 million Palestinians received a transfer order to evacuate to the South of Gaza.⁴⁶⁸ One of the two evacuation routes - Salah al-Din Road - was then bombed.⁴⁶⁹ While the Israeli Forces denies responsibility for the strike, analysis of the video footage by the Financial Times and drone strike experts at Airwars rules out most explanations aside from an Israeli strike.⁴⁷⁰

⁴⁶⁶ Israel Ministry of Foreign Affairs, 'Hamas-Israel Conflict 2023: Frequently Asked Questions' (*Ministry of Foreign Affairs*, 8 December 2023) <www.gov.il/en/Departments/General/swords-of-iron-faq-6-dec-2023#2> accessed 18 February 2024.

⁴⁶⁷ Nicola Perugini, 'Safe zones: Israel's technologies of genocide' (*Al Jazeera*, 6 January 2024) <www.aljazeera.com/opinions/2024/1/6/safe-zones-israels-technologies-of-genocide> accessed 18 February 2024.

⁴⁶⁸ IDF Editorial Team, 'Hamas-Israel War: Real Time Updates' (*IDF Editorial Team*, 7 October 2023) <www.IDF.il/en/mini-sites/hamas-israel-war-24/real-time-updates/> accessed 18 February 2024; IDF, 'IDF announcement sent to civilians of Gaza City...' (Twitter, 13 October 2023) <<https://x.com/IDF/status/1712707301369434398?s=20>> accessed 18 February 2024; Joseph Krauss and Wafaa Shurafa, 'Israel orders the evacuation of 1.1 million people from northern part of Gaza, the UN says' (*AP News*, 13 October 2023) <https://apnews.com/article/israel-palestinians-gaza-hamas-airstrikes-cabinet-beb1fa2b9e4ede6cf4568dd6c86ff11a?taid=6528bd89ddb60001a46114&utm_campaign=TrueAnthem&utm_medium=AP&utm_source=Twitter> accessed 18 February 2024.

⁴⁶⁹ Paul Brown and Jemimah Herd, 'Strike on civilian convoy fleeing Gaza: What we know from verified video' (*BBC News*, 16 October 2023) <www.bbc.co.uk/news/world-middle-east-67114281> accessed 18 February 2024.

⁴⁷⁰ Mehul Srivastava, Sam Joiner and Peter Andringa, 'Did Israel bomb a civilian evacuation route in Gaza?' (*Financial Times* (London), 15 October 2023) <www.ft.com/content/95c5fcf1-c756-415f-85b8-1e4bbff24736> accessed 18 February 2024.

- On February 12, 2024, at least 67 Palestinians were killed in Israeli airstrikes on Rafah, a designated safe zone in the southernmost part of Gaza, where 1.5 million refugees are currently sheltering.⁴⁷¹

228. Further evidence of Israel targeting zones they have ordered evacuation to can be found in an investigation by Reuters,⁴⁷² investigations by the Data and Forensics Unit at Sky News,⁴⁷³ a report from Amnesty International⁴⁷⁴ and an investigation by the New York Times.⁴⁷⁵ In particular, on the designation of South Gaza as a safe zone:

- NYT investigation states: “Israel routinely used one of its biggest and most destructive bombs in areas of Southern Gaza it designated safe for civilians”.

⁴⁷¹ Jemimah Herd, ‘BBC Verify looks at images from space that show how crowded Rafah is’ (*BBC News*, 13 February 2024) <www.bbc.co.uk/news/av/world-middle-east-68280754> accessed 18 February 2024; OCHA, ‘Hostilities in Gaza and Israel | Flash Update #117’ (*OCHA*, 13 February 2024) <www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-117> accessed 18 February 2024; Hiba Yazbek, ‘Palestinians in Rafah Describe ‘Night Full of Horror’ During Israeli Hostage Rescue’ *The New York Times* (New York, 12 February 2024) <www.nytimes.com/2024/02/12/world/middleeast/rafah-bombing-hostage-rescue-gaza.html> accessed 18 February 2024.

⁴⁷² Arafat Barbakh and Mohammed Salem, ‘Israel pressed ground offensive in southern Gaza, air strikes intensify’ (*Reuters*, 4 December 2023) <www.reuters.com/world/middle-east/israel-says-ground-forces-operating-across-gaza-strip-offensive-builds-2023-12-04/> accessed 18 February 2024; see also Reuters, ‘Israel orders Gazans to flee, bombs where it sends them’ (4 December 2023) <www.youtube.com/watch?v=JlGmwCMETMs> accessed 18 February 2024.

⁴⁷³ Ben van der Merwe, Michelle Inez Simon and Olive Enokido-Lineham, ‘Israel said Gazans could flee to this neighbourhood - then it was hit’ (*Sky News*, 22 December 2023) <<https://news.sky.com/story/israel-said-gazans-could-flee-to-this-neighbourhood-then-it-was-hit-13034936>> accessed 18 February 2024; Ben van der Merwe ‘Israel-Hamas war: Satellite data shows Israel intensifying bombing of south Gaza’ (*Sky News*, 26 October 2023) <<https://news.sky.com/story/gaza-war-satellite-data-shows-israel-intensifying-bombing-of-south-12993277>> accessed 18 February 2024.

⁴⁷⁴ Amnesty International, ‘Israel/OPT: fresh evidence of probable war crimes in Israeli attacks on Rafah’ (*Amnesty International*, 12 February 2024) <www.amnesty.org.uk/press-releases/israelopt-fresh-evidence-probable-war-crimes-israeli-attacks-rafah> accessed 18 February 2024.

⁴⁷⁵ Robin Stein and others, ‘Visual Evidence Shows Israel Dropped 2,000-Pound Bombs Where It Ordered Gaza’s Civilians to Move for Safety’ *The New York Times* (New York, 21 December 2023) <www.nytimes.com/video/world/100000009208814/israel-gaza-bomb-civilians.html>; Robin Stein and others, ‘A Times Investigation Tracked Israel’s Use of One of Its Most Destructive Bombs in South Gaza’ *The New York Times* (New York, 21 December 2023) <www.nytimes.com/2023/12/21/world/middleeast/israel-gaza-bomb-investigation.html> accessed 18 February 2024.

- Sky News Data and Forensics Unit states: “Almost half of all new damage detected between October 14 and 25 was in Southern Gaza (47%), up from 14% before the evacuation order. While there was a decrease in new damage across Gaza during those two weeks, the level of destruction in Southern Gaza increased by 85%.”⁴⁷⁶

229. Further reports detail that, of the 500 2000 lb bombs (“dumb bombs”) dropped on Gaza in the first 6 weeks, almost 50% (208) were dropped in the designated safe area of Southern Gaza.⁴⁷⁷ During the US-led coalition attack on ISIS, the US dropped a 2,000-pound bomb only once.⁴⁷⁸ A former US defence intelligence analyst and former United Nations war crimes investigator, said on the density of Israel’s first month of bombardment in Gaza: “You’d have to go back to the Vietnam war to make a comparison. Even in both Iraq wars it was never that dense.”⁴⁷⁹

⁴⁷⁶Ben van der Merwe. ‘Israel-Hamas war: Satellite data shows Israel intensifying bombing of south Gaza’ (*Sky News*, 26 October 2023) <<https://news.sky.com/story/gaza-war-satellite-data-shows-israel-intensifying-bombing-of-south-12993277>> accessed 18 February 2024.

⁴⁷⁷Tamara Qiblawi and others, “Not seen since Vietnam’: Israel dropped hundreds of 2,000-pound bombs on Gaza, analysis shows’ (*CNN*, 22 December 2023) <<https://edition.cnn.com/gaza-israel-big-bombs/index.html>> accessed 18 February 2024; James Zogby, ‘Page 1 of today’s NY Times...’ (Twitter, 18 January 2024) <<https://twitter.com/jjz1600/status/1747788514677195076?t=6dcjAv3bihKduMdqFCTVWw&s=08>> accessed 18 February 2024; Robin Stein and others, ‘A Times Investigation Tracked Israel’s Use of One of Its Most Destructive Bombs in South Gaza’ *The New York Times* (New York, 21 December 2023) <www.nytimes.com/2023/12/21/world/middleeast/israel-gaza-bomb-investigation.html> accessed 18 February 2024.

⁴⁷⁸ Tamara Qiblawi and others, “Not seen since Vietnam’: Israel dropped hundreds of 2,000-pound bombs on Gaza, analysis shows’ (*CNN*, 22 December 2023) <<https://edition.cnn.com/gaza-israel-big-bombs/index.html>> accessed 18 February 2024; Amnesty International “War of Annihilation: Devastating toll on civilians, Raqaa - Syria’ (*Amnesty International*, 2018) <www.amnesty.org.uk/files/reports/War%20of%20annihilation%20report.pdf> accessed 18 February 2024, 51.

⁴⁷⁹ Tamara Qiblawi and others, “Not seen since Vietnam’: Israel dropped hundreds of 2,000-pound bombs on Gaza, analysis shows’ (*CNN*, 22 December 2023) <<https://edition.cnn.com/gaza-israel-big-bombs/index.html>> accessed 18 February 2024.

230. Analysis from the United Nations Office for the Coordination of Humanitarian Affairs shows that, in the first 2 weeks of aggression, 40% of victims were killed in “safe zones”.⁴⁸⁰

231. In addition, the evacuation orders issued by the Israeli Forces are often confusing, contradictory, or subject to unpredictable, rapid change.⁴⁸¹ Their workability has been questioned by numerous United Nations officials, heads of states, and experts including Save the Children International; UNRWA; Oxfam; the WHO chief Tedros Adhanom Ghebreyesus; Under-Secretary-General for Humanitarian affairs and Emergency Relief Coordinator, Martin Griffiths; and President of the French Republic, Emmanuel Macron.⁴⁸²

232. On December 1, the Israeli military published online a detailed gridded map of Gaza.⁴⁸³ It claimed that this would help civilians to avoid combat zones, thereby minimising

⁴⁸⁰ OCHA, ‘Hostilities in Gaza and Israel - reported impact | Day 20’ (*OCHA*, 27 October 2023) <www.ochaopt.org/content/hostilities-gaza-strip-and-israel-reported-impact-day-20> accessed 18 February 2024.

⁴⁸¹ Jake Tacchi, ‘Israel struck some areas it directed civilians to in Gaza, CNN analysis shows’ (*CNN*, 21 December 2023) <<https://edition.cnn.com/2023/12/21/middleeast/israel-strikes-evacuation-zones-gaza-intl-cmd/index.html>> accessed 18 February 2024.

⁴⁸² Julian Borger and Ruth Michaelson, ‘IDF instructions on Gaza refuge zones cruel ‘mirage’, say aid agencies’ *The Guardian* (London, 7 December 2023) <www.theguardian.com/world/2023/dec/07/IDF-israel-gaza-refuge-zones-cruel-mirage-say-aid-agencies> accessed 18 February 2024; Beyza Binnur Donmez, ‘Israel’s so-called ‘safe zone’ proposal in southern Gaza ‘recipe for disaster’: WHO chief’ (*AA*, 18 November 2023) <www.aa.com.tr/en/middle-east/israels-so-called-safe-zone-proposal-in-southern-gaza-recipe-for-disaster-who-chief/3056911> accessed 18 February 2024; Martin Griffiths, Under-Secretary-General for Humanitarian Affairs, ‘UN relief chief: ‘No place safe’ for civilians in southern Gaza’ (*OCHA*, 7 December 2023) <www.unocha.org/news/un-relief-chief-no-place-safe-civilians-southern-gaza> accessed 18 February 2024; Patrick Wintour, ‘Emmanuel Macron rejects Israeli plan for safe zones in southern Gaza’ *The Guardian* (London, 9 November 2023) <www.theguardian.com/world/2023/nov/09/emmanuel-macron-rejects-israeli-plan-for-safe-zones-in-southern-gaza> accessed 18 February 2024.

⁴⁸³ Emanuel Fabian ‘IDF says new map splitting Gaza into zones will help residents avoid combat areas’ *The Times of Israel* (Jerusalem, 1 December 2023) <www.timesofisrael.com/liveblog_entry/new-IDF-map-splits-gaza-into-hundreds-of-zones-residents-will-be-warned-of-active-combat/> accessed 18 February 2024; The Times of Israel, ‘IDF tells residents of a number of Khan Younis neighborhoods to leave for safe zones’ *The Times of Israel* (Jerusalem, 3 December 2023) <www.timesofisrael.com/liveblog_entry/IDF-tells-residents-of-a-number-of-khan-younis-neighborhoods-to-leave-for-safe-zones/> accessed 18 February 2024.

casualties. However, lack of electricity and power shortage in Gaza facilitated by the Israeli government⁴⁸⁴ have left many Palestinians in Gaza in the dark about the maps, and where to flee. To this effect, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) has stated that “(T)he publication does not specify where people should evacuate to. It is unclear how those residing in Gaza would access the map without electricity and amid recurrent telecommunications cuts”.⁴⁸⁵ Mohammad Ghalayini, who lives in the southern Gaza city of Khan Younis, told NBC News “The map isn’t usable because the communications are really, really bad.”⁴⁸⁶

233. Moreover, a recent report from the United Nations Special Rapporteur on Palestine – “Situation of human rights in the Palestinian territory occupied since 1967” – has scrutinised the effectiveness of pre-warnings, stating that “Pre-warnings have not proven effective at sparing civilian life: entire families have lost their lives in night attacks.... Palestinians in Gaza have been imprisoned for 16 years and have few if any places to hide when bombs fall upon them”.⁴⁸⁷

234. Further evidence that the creation of safe zones does not protect against genocidal intent is found in the context of the 1995 Srebrenica genocide:⁴⁸⁸ During the Bosnian War, in April 1993 the United Nations Security Council adopted Resolution 819 which formally

⁴⁸⁴Asharq al Awsat, ‘Israel Halts Electricity Supply to Gaza, Says Energy Minister’ (*Asharq al Awsat*, 8 October 2023) <<https://english.aawsat.com/arab-world/4591831-israel-halts-electricity-supply-gaza-says-energy-minister>> accessed 18 February 2024.

⁴⁸⁵OCHA ‘Hostilities in Gaza and Israel | Flash Update #56’ (*OCHA*, 1 December 2023) <www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-56> accessed 18 February 2024.

⁴⁸⁶Alexander Smith and Yuliya Talmazan, ‘Israel’s new grid maps add to confusion and anger in Gaza’ (*NCB News*, 5 December 2023) <www.nbcnews.com/news/world/israel-gaza-grid-maps-amas-khan-younis-rcna128057> accessed 18 February 2024.

⁴⁸⁷United Nations, ‘Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967’ (20 October 2023) UN Doc [A/78/545](#), para 33.

⁴⁸⁸*Prosecutor v. Radislav Krstic* (Appeal Judgment) IT-98-33-A (19 April 2004) [37]; “The Court concludes that the acts committed at Srebrenica falling within Article II (a) and (b) of the Convention were committed with the specific intent to destroy in part the group of the Muslims of Bosnia and Herzegovina as such; and accordingly that these were acts of genocide, committed by members of the VRS in and around Srebrenica from about 13 July 1995.”, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)* ICJ Judgement (26 February 2007) [297].

declared Srebrenica a UN-protected 'safe area' in response to the rapidly deteriorating humanitarian situation.⁴⁸⁹ The international community reaffirmed its obligation to protect the Srebrenica 'safe area' in two subsequent United Nations resolutions (824 and 836).⁴⁹⁰ A few days later, an agreement was signed calling for a total cease-fire in Srebrenica, the demilitarisation of the enclave, the deployment of an UNPROFOR (United Nations Protection Forces) company into Srebrenica, and the opening of a corridor between Tuzla and Srebrenica for the evacuation of the seriously wounded and ill.⁴⁹¹ Despite being a signatory to this agreement⁴⁹², in March 1995 Radovan Karadžić, President and Supreme Commander of the armed forces of the Republika Srpska (VRS), instructed Bosnian Serb forces to eliminate the Muslim population from the Srebrenica and Žepa enclaves via Directive 7, which ordered forces to “(B)y planned and well thought-out combat operations, create an unbearable situation of total insecurity with no hope of further survival or life for inhabitants of Srebrenica and Žepa”.⁴⁹³ This was despite statements by VRS general Zdravko Tolimir that the Bosnian Serb Forces “had no particular problems with UNPROFOR or the civil population in Srebrenica”.⁴⁹⁴

⁴⁸⁹IRMCT, ‘Srebrenica: Timeline of a Genocide’ (*IRMCT*) <www.irmct.org/specials/srebrenica/timeline/en/> accessed 18 February 2024; Memorial Center Srebrenica, ‘The Srebrenica 'Safe Area'’ (*Memorial Center Srebrenica*) <<https://srebrenicamemorial.org/en/page/the-srebrenica-safe-area/25>> accessed 18 February 2024; *Prosecutor v Zdravko Tolimir, Radivoje Miletic and Milan Gvero* (Indictment) IT-04-80-I (8 February 2005).

⁴⁹⁰*Prosecutor v Zdravko Tolimir, Radivoje Miletic and Milan Gvero* (Indictment) IT-04-80-I (8 February 2005) [4]; *Prosecutor v. Rodovan Karadžić* (Trial Judgement) IT-95-5/18-T (24 March 2016) [376].

⁴⁹¹IRMCT, ‘Srebrenica: Timeline of a Genocide’ (*IRMCT*) <www.irmct.org/specials/srebrenica/timeline/en/> accessed 18 February 2024.

⁴⁹² Agreement for the Demilitarization of Srebrenica (18 April 1993) <https://peacemaker.un.org/sites/peacemaker.un.org/files/BA_930418_Agreement%20on%20the%20Demilitarization%20of%20Srebrenica.pdf> accessed 18 February 2024.

⁴⁹³*Prosecutor v Zdravko Tolimir, Radivoje Miletic and Milan Gvero* (Indictment) IT-04-80-I (8 February 2005) [5]; IRMCT, ‘Srebrenica: Timeline of a Genocide’ (*IRMCT*) <www.irmct.org/specials/srebrenica/timeline/en/> accessed 18 February 2024.

⁴⁹⁴ *Prosecutor v. Rodovan Karadžić* (Trial Judgement) IT-95-5/18-T (24 March 2016) [5016].

235. The Srebrenica attacks by the VRS lead to the deaths of over 8,000 Bosniak Muslim men and boys.⁴⁹⁵ In 2004, the Appeals Chamber of the ICTY unanimously ruled that the massacre in and around the town of Srebrenica constituted a Genocide under Article 6 of the Rome Statute (*Prosecutor v. Krstić*),⁴⁹⁶ a ruling further upheld by the ICJ in 2007.⁴⁹⁷

236. It is therefore evident that the creation of 'safe zones', even if ratified by the attacking force, does little to mitigate or obstruct genocidal attacks. In the context of Srebrenica, the safe areas were United Nations enforced, and thus their violation by the VRS provides explicit evidence of genocidal intent. In the context of Gaza, safe zones are created, manipulated, and violated by Israel, making them a technology for genocidal acts.

237. The language of safe zones is thus used as a form of plausible deniability for genocide. In Gaza, those who remained outside of safe zones were framed as human shields, indistinguishable from combatants. As a result their deaths were justified as lawful military attacks. Those who left were targeted on the way to, or in, the safe zones. This distributed approach amounts to the total cancellation of the status of civilians and civilian protections, where safe zones are notional, rather than material, and thus produce an image of protection without the substance. And where accusations of human shielding operate alongside this to justify civilian casualties outside of safe zones. In other words, these terms are used as discursive devices - or technologies - to facilitate ethnic cleansing.⁴⁹⁸

⁴⁹⁵ Memorial Center Srebrenica, 'The Srebrenica 'Safe Area'' (*Memorial Center Srebrenica*) <<https://srebrenicamemorial.org/en/page/the-srebrenica-safe-area/25>> accessed 18 February 2024

⁴⁹⁶ *Prosecutor v. Radislav Krstic* (Appeal Judgment) IT-98-33-A (19 April 2004) [37].

⁴⁹⁷ "The Court concludes that the acts committed at Srebrenica falling within Article II (a) and (b) of the Convention were committed with the specific intent to destroy in part the group of the Muslims of Bosnia and Herzegovina as such; and accordingly that these were acts of genocide, committed by members of the VRS in and around Srebrenica from about 13 July 1995." *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)* ICJ Judgement (26 February 2007) [297].

⁴⁹⁸ Nicola Perugini, 'Safe zones: Israel's technologies of genocide' (*Al Jazeera*, 6 January 2024) <www.aljazeera.com/opinions/2024/1/6/safe-zones-israels-technologies-of-genocide> accessed 18 February 2024.

5.3.3 Justifying Attacks against Medical Targets through the Human Shields Argument

Medical Units as Protected Objects under International Law

238. Under international humanitarian law codified by the Geneva Conventions of 1949 and the Additional Protocols, the wounded and sick of all parties engaged in combat enjoy the right to be protected, respected, searched for and collected, and cared for without discrimination on non-medical grounds.⁴⁹⁹ The targeting of medical staff, establishments, and units during military combat directly impedes the above-mentioned rights of the sick and wounded that are enshrined in customary international law and are thus prohibited by law in most cases. Medical establishments can, however, lose their legal protection during an armed conflict if there exist reasonable grounds to believe that they are being used by a party to a conflict, for non-humanitarian functions, to commit “acts harmful to the enemy”. According to Article 12 of the Additional Protocol I, there are two ways in which a medical facility can lose its protected legal status: (1) the medical unit is used as a human shield—by providing refuge to combatants or storing ammunition for a combatant party and/or (2) the medical unit is deliberately sited near a military target. In both of the above situations, medical units can be legitimate targets as long as strikes follow the cardinal IHL rules of proportionality, necessity, and distinction, as well as following a warning for the medical unit or facility to cease its “acts harmful to the enemy”.⁵⁰⁰

239. It is important to note that there is no clear legal definition of “acts harmful to the enemy” leaving it open to interpretation by combatant parties. Like in the case of human

⁴⁹⁹ ICRC, ‘The protection of hospitals during armed conflicts: What the law says’ (ICRC, 2 November 2023) <www.icrc.org/en/document/protection-hospitals-during-armed-conflicts-what-law-says#:~:text=According%20to%20international%20humanitarian%20law,staff%20and%20means%20of%20transport> accessed 18 February 2024.

⁵⁰⁰ Jean Pictet and others, ‘Protocol I: Article 13 - Discontinuance of protection of civilian medical units’, in Yves Sandoz, Christophe Swinarski and Bruno Zimmermann (eds), *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (Martinus Nijhoff Publishers, International Committee of the Red Cross, Geneva 1987), 175.

shields, Israel has adopted an interpretation which has relaxed civilian protections to legitimise its attacks on medical facilities. This has been the case in previous rounds of aggression on Gaza in which Israel has framed Palestinian hospitals and personnel as “hospital shields.”⁵⁰¹ And it has reached its peak in Israel’s 2023 onslaught on Gaza, where each of these legal exceptions has been used by Israel to justify its indiscriminate attacks upon Palestinian doctors, medics, hospitals, ambulances, and the sick and wounded in Gaza. Further, Israeli military and political leadership have continually manipulated these legal exceptions in an attempt to expand their application to circumstances that expressly violate the humanitarian principles of IHL. In particular, Israel argues that all civilian infrastructure including medical establishments in Gaza harbour combatants from the Palestinian resistance, and can therefore be legitimately targeted.

Patterns of Historical Violence against Medical Units

240. During past aggressions against Palestinians in Gaza, Israel has repeatedly framed Palestinian medical establishments, including medical workers as “hospital shields” of the Palestinian armed resistance, to justify indiscriminate attacks on Palestinian civilians. In each case, Israel has failed to provide evidence that the targeted objects were human shields. In some instances, the Israeli military has fabricated or used misleading evidence to justify attacks against protected medical objects, the credibility of which has later been questioned by independent investigators.⁵⁰² Moreover, in each case, Israel has also failed

⁵⁰¹ Neve Gordon and Nicola Perugini, ‘Hospital Shields’ and the Limits of International Law’ (May 2019) 30 (2) *European Journal of International Law*, 439 <<https://doi.org/10.1093/ejil/chz029>> accessed 18 February 2024; Nicola Perugini and Neve Gordon, ‘Medical Lawfare: The Nakba and Israel’s Attacks on Palestinian Healthcare’ (Spring 2024) *Journal of Palestine Studies* (forthcoming).

⁵⁰² Human Rights Watch, ‘Gaza: Unlawful Israeli Hospital Strikes Worsen Health Crisis’ (*Human Rights Watch*, 14 November 2023) <www.hrw.org/news/2023/11/14/gaza-unlawful-israeli-hospital-strikes-worsen-health-crisis> accessed 18 February 2024; Julian Borger, ‘IDF evidence so far falls well short of al-Shifa hospital being Hamas HQ’ *The Guardian* (London, 17 November 2023) <www.theguardian.com/world/2023/nov/17/IDF-evidence-so-far-falls-well-short-of-al-shifa-hospital-being-hamas-hq> accessed 18 February 2024; Louisa Loveluck and others, ‘The case of al-Shifa: Investigating the assault on Gaza’s largest hospital’ *The Washington Post* (Washington, 21 December 2023) <www.washingtonpost.com/world/2023/12/21/al-shifa-hospital-gaza-hamas-israel/> accessed 18 February 2024.

to meet the necessity and proportionality threshold that determines whether an Israeli strike against a Palestinian medical establishment being used for non-humanitarian purposes can be permitted under IHL:

241. During Israel's 2008-09 war on Gaza, the Israeli army damaged 58 hospitals and clinics, and 29 ambulances, killed 16 medical workers, and injured 25 more.⁵⁰³ On January 15, 2009, heavy Israeli bombardment which included the dropping of prohibited white phosphorus bombs caused significant damage to Al-Quds Hospital and a neighbouring ambulance depot run by the Palestinian Red Crescent Society.⁵⁰⁴ The attack was carried out without warning endangering the lives of over 50 patients and staff.⁵⁰⁵ No military intelligence was provided that the strike was directed at legitimate targets proximate to or inside the medical units that it bombed. In January 2009, Al-Wafa Hospital was attacked with intensive artillery fire, including white phosphorus shells.⁵⁰⁶ There was no presence of armed resistance in the hospital barring a wounded Palestinian fighter (all wounded are non-combatants under IHL) whom Israeli airstrikes had targeted with lethal violence in 2006.⁵⁰⁷ The independent fact-finding mission concluded that "the use of white phosphorus in such an area (was) reckless and not justifiable in relation to any military advantage sought in the particular circumstances."⁵⁰⁸ The report further

⁵⁰³ Medical Aid for Palestinians, 'Health Under Occupation' (*Medical Aid for Palestinians*, September 2017) <www.map.org.uk/downloads/health-under-occupation---map-report-2017.pdf> 16.

⁵⁰⁴ UNGA Human Rights Council, 'Human Rights in Palestine and Other Occupied Arab Territories: Report of the United Nations Fact-Finding Mission on the Gaza Conflict' (25 September 2009) UN Doc [A/HRC/12/48](https://www.unhcr.org/refugees/pdf/A/HRC/12/48), paras 596, 613.

⁵⁰⁵ UNGA Human Rights Council, 'Human Rights in Palestine and Other Occupied Arab Territories: Report of the United Nations Fact-Finding Mission on the Gaza Conflict' (25 September 2009) UN Doc [A/HRC/12/48](https://www.unhcr.org/refugees/pdf/A/HRC/12/48), paras 596, 613.

⁵⁰⁶ UNGA Human Rights Council, 'Human Rights in Palestine and Other Occupied Arab Territories: Report of the United Nations Fact-Finding Mission on the Gaza Conflict' (25 September 2009) UN Doc [A/HRC/12/48](https://www.unhcr.org/refugees/pdf/A/HRC/12/48), paras 635, 638.

⁵⁰⁷ UNGA Human Rights Council, 'Human Rights in Palestine and Other Occupied Arab Territories: Report of the United Nations Fact-Finding Mission on the Gaza Conflict' (25 September 2009) UN Doc [A/HRC/12/48](https://www.unhcr.org/refugees/pdf/A/HRC/12/48), para 642.

⁵⁰⁸ UNGA Human Rights Council, 'Human Rights in Palestine and Other Occupied Arab Territories: Report of the United Nations Fact-Finding Mission on the Gaza Conflict' (25 September 2009) UN Doc [A/HRC/12/48](https://www.unhcr.org/refugees/pdf/A/HRC/12/48), para 649.

concluded that it did not find any evidence to support Israeli allegations that hospital facilities were used by Palestinian armed groups to shield military activities or that ambulances were used to transport combatants or for other military purposes.⁵⁰⁹

242. In July 2014, during Israel's 2014 invasion of Gaza, the Israeli military struck the third floor of the Al-Aqsa hospital in Deir al-Balah killing five civilians and injuring 70.⁵¹⁰ The Israeli military justified the attack by arguing that it had targeted a cache of anti-tank missiles which they had located in the hospital's 'immediate vicinity'.⁵¹¹ Israeli forces attacked the al-Wafa Rehabilitation Hospital in Shuja'iyyeh repeatedly throughout July 2014 with airstrikes and tank fire, causing damage to the facility's upper floors.⁵¹² The hospital was destroyed by airstrikes on July 23.⁵¹³ The Israeli military opened an investigation into the incident and concluded that most of the airstrikes had been compliant with IHL and followed the principle of proportionality.⁵¹⁴ However, the United Nations independent Commission of Inquiry, set up to investigate war crimes perpetrated during the invasion, reported that Israel's use of military-grade weapons with wide-area effects to attack legitimate targets in the vicinity of specially protected

⁵⁰⁹ UNGA Human Rights Council, 'Human Rights in Palestine and Other Occupied Arab Territories: Report of the United Nations Fact-Finding Mission on the Gaza Conflict' (25 September 2009) UN Doc [A/HRC/12/48](#), para 36.

⁵¹⁰ BBC, 'Gaza conflict: Five dead at hospital hit by Israeli strike' (*BBC News*, 22 July 2014) <[www.bbc.com/news/world-middle-east-28399292](#)> accessed 18 February 2024.

⁵¹¹ BBC, 'Gaza conflict: Five dead at hospital hit by Israeli strike' (*BBC News*, 22 July 2014) <[www.bbc.com/news/world-middle-east-28399292](#)> accessed 18 February 2024.

⁵¹² Amnesty International, 'Israel/Gaza: Attacks on medical facilities and civilians add to war crime allegations' (*Amnesty International*, 21 July 2014) <[www.amnesty.org/en/latest/news/2014/07/israelgaza-attacks-medical-facilities-and-civilians-add-war-crime-allegations/](#)> accessed 18 February 2024.

⁵¹³ Letter from Human Rights Watch to Brigadier General Sharon Afek, Israeli Military Advocate General (21 February 2017) <[www.hrw.org/news/2017/02/21/letter-israel-military-advocate-general-re-attacks-health-facilities](#)> accessed 18 February 2024.

⁵¹⁴ Letter from Human Rights Watch to Brigadier General Sharon Afek, Israeli Military Advocate General (21 February 2017) <[www.hrw.org/news/2017/02/21/letter-israel-military-advocate-general-re-attacks-health-facilities](#)> accessed 18 February 2024.

objects like hospitals can constitute an indiscriminate attack against civilians and be considered a war crime.⁵¹⁵

243. During the Great March of Return protests between 2018 and 2019, when Palestinians from Gaza demonstrated non-violently near the border fence with Israel every Friday for eighteen months, the World Health Organisation recorded 563 attacks on healthcare infrastructure, medics, and equipment. 118 ambulances were damaged, seven health care facilities were attacked, 842 medics were injured and three were killed by Israel armed forces.⁵¹⁶ Most of the doctors and medics who were shot were identifiable from a distance and wore bright, fluorescent jackets at the time of the attack.⁵¹⁷ For instance the aforementioned case of Razan Al-Najjar, a 21-year-old paramedic who was killed by Israel while on duty at the border, was wearing a white paramedic vest, and was identifiable as a medical volunteer who was aiding injured demonstrators at the time the fatal shot was fired.⁵¹⁸ At first, the Israeli Forces claimed that no shots were deliberately aimed at Al-Najjar although a later investigation by Israeli human rights organisation, B'Tselem proved that the intentional fatal shot had been fired by the Israeli Forces towards Al-Najjar.⁵¹⁹ The Israeli Forces later released a mistranslated, edited video attempting to

⁵¹⁵ UNGA Human Rights Council, 'Report of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1' (24 June 2015) UN Doc [A/HRC/29/52](#), para 52

<<https://www.ohchr.org/en/hr-bodies/hrc/co-i-gaza-conflict/report-co-i-gaza>> accessed 18 February 2024.

⁵¹⁶ World Health Organization 'Patient and health worker shot with live ammunition during Gaza's Great March of Return' (*WHO Eastern Mediterranean Region*) <www.emro.who.int/opt/news/patient-and-health-worker-shot-with-live-ammunition-during-gazas-great-march-of-return.html> accessed 18 February 2024.

⁵¹⁷ Michelle Randhawa, 'Medical Workers Shot in Gaza Demonstrations' (*Human Rights Watch*, 11 June 2018) <www.hrw.org/news/2018/06/11/medical-workers-shot-gaza-demonstrations> accessed 18 February 2024.

⁵¹⁸ Michelle Randhawa, 'Medical Workers Shot in Gaza Demonstrations' (*Human Rights Watch*, 11 June 2018) <www.hrw.org/news/2018/06/11/medical-workers-shot-gaza-demonstrations> accessed 18 February 2024.

⁵¹⁹ Mersiha Gadzo, 'Israeli forces 'deliberately killed' Palestinian paramedic Razan' (*Al Jazeera*, 18 July 2018) <www.aljazeera.com/news/2018/7/18/israeli-forces-deliberately-killed-palestinian-paramedic-razan> accessed 18 February 2024; Israel Defence Forces, 'During an initial examination of the incident that took place on June 1st, 2018...' (Twitter, 5 June 2018) <<https://twitter.com/IDF/status/1004005041701818368>> accessed 18 February 2024.

portray Al-Najjar as a human shield of Hamas, which was widely reported as fake.⁵²⁰ After conducting a detailed investigation, the International Independent Commission of Inquiry reported that it did not find that Al-Najjar posed an imminent threat of death or serious injury to Israel when she was shot.⁵²¹ The commission also stated that it “found reasonable grounds to believe that Israeli snipers intentionally shot health workers, despite seeing that they were clearly marked as such.”⁵²²

244. During Israel’s 2021 invasion of Gaza, a total of 17 hospitals and clinics were damaged by Israeli forces, and two prominent doctors were killed.⁵²³ A report by Human Rights Watch after investigating Israeli war crimes in Gaza in May 2021 noted, “Israel has repeatedly accused Palestinian armed groups of deploying among civilians and – without providing evidence, using them as “human shields”.”⁵²⁴

245. Recurrent instances of targeting medical establishments and staff in Gaza by Israeli forces constitute a deliberate attempt to cast Palestinians of protected status as legitimate

⁵²⁰ Independent, ‘Israeli army edits video of Palestinian medic its troops shot dead to misleadingly show she was ‘human shield for Hamas’ *Independent* (London, 11 June 2018) <www.independent.co.uk/news/world/middle-east/gaza-protests-latest-IDF-condemned-edited-video-angel-of-mercy-medic-razan-al-najjar-a8389611.html> accessed 18 February 2024.

⁵²¹ United Nations Human Rights Council. ‘Report of the detailed findings of the independent international Commission of inquiry on the protects in the Occupied Palestinian Territory’ (18 March 2019) UN Doc [A/HRC/40/CRP.2](https://www.unhcr.org/refugees/40/crp.2), para 524.

⁵²² United Nations Human Rights Council. ‘Report of the detailed findings of the independent international COMmission of inquiry on the protects in the Occupied Palestinian Terrtiroy’ (18 March 2019) UN Doc [A/HRC/40/CRP.2](https://www.unhcr.org/refugees/40/crp.2), para 526.

⁵²³ Hazem Balousha and Peter Beaumont, ‘Massive destruction’: Israeli strikes drain Gaza’s limited health services’ *The Guardian* (London, 17 May 2021) <www.theguardian.com/world/2021/may/17/israeli-strikes-gaza-health-system-doctors-hospitals> accessed 18 February 2024; Iyad Abuheweila and others, ‘Gaza War Deepens a Long-Running Humanitarian Crisis’ *The New York Times* (New York, 20 May 2021) <www.nytimes.com/2021/05/18/world/middleeast/gaza-israel.html> accessed 18 February 2024; Colm Quinn, ‘Calls for Israel-Gaza Cease-Fire Intensify’ (*Foreign Policy*, 17 May 2021) <<https://foreignpolicy.com/2021/05/17/israel-gaza-ceasefire-netanyahu/>> accessed 18 February 2024; Bel Trew, ‘Israeli airstrikes wiped out the family of Gaza’s leading doctor. Only his teenage son survived’ *Independent* (London, 24 May 2021) <www.independent.co.uk/news/world/middle-east/gaza-doctor-family-airstrike-israel-b1851894.html> accessed 18 February 2024.

⁵²⁴ Human Rights Watch, ‘Gaza: Israel’s May Airstrikes on High-Rises’ (*Human Rights Watch*, 23 August 2021) <www.hrw.org/news/2021/08/23/gaza-israels-may-airstrikes-high-rises> accessed 18 February 2024.

targets of Israeli aggression. In each of these cases, Israel has failed to provide conclusive evidence that the targeted medical units were operating as human shields for Palestinian armed groups; in some cases, they have resorted to falsifying evidence to justify killings that constitute war crimes. Attacks on medical staff and equipment are thus indicative of a larger pattern of anti-Palestinian dehumanisation practised by the IOF, predicated on blurring the distinction between Palestinian civilians and combatants. This pattern is also instructive in contextualizing Israel's indiscriminate violence against medical units in Gaza during the 2023 war and helps examine how Israel's unqualified application of the human shields argument rationalises genocide.

5.3.4 Elements of the Human Shields Argument as Applied to Medical Targets

Unprecedented scale of violence

246. The aggravated scale of Israel's attacks on medical units in Gaza during its 2023-24 war indicates an intent to 'de-civilianise' all parts of Palestinian life including those protected by international law. The IOF's attacks on medical establishments have killed Palestinian medics, the sick, wounded, and displaced, crippled Gaza's healthcare infrastructure, and limited civilian access to life-saving healthcare amidst indiscriminate bombardment. Further, Israel has also deliberately denied the entry of essential medical supplies into Gaza through Egypt. First, the nature and extent of direct Israeli violence against Palestinian medical units is unprecedented; past Israeli attacks upon medical units in Gaza cannot match the current scale of violence. Second, multifaceted Israeli attempts to immobilise and suffocate the healthcare system in Gaza exhibit an attempt to destroy all future possibilities of life in Gaza, including limiting the birth of Palestinian life. This, too, is unparalleled by past Israeli aggressions in Gaza. Thus, the scale of Israeli attacks upon medical units in Gaza attempts to de-civilianise protected Palestinians and is constitutive of the intent to commit genocide. Indeed, the whole healthcare sector has collapsed as a result of Israel's systematic attacks on it, eradicating crucial life-sustaining and supporting infrastructures, and ultimately letting part of the population die while they have been carpet bombed and starved.

247. Between October 7, 2023, and December 29, 2023, WHO has recorded 294 attacks on healthcare infrastructure including hospitals, clinics, and ambulances.⁵²⁵ 600 Palestinians have been killed as a result of these attacks and 764 have been injured.⁵²⁶ As of January 3, 374 medical personnel have been killed by Israeli attacks including 127 physicians, 110 nurses, and 137 others in various medical roles.⁵²⁷ Additionally, at least 110 healthcare workers have been abducted and tortured by the invading Israeli army.⁵²⁸ Israeli forces have attacked every hospital in Gaza, running several out of operation.⁵²⁹ According to the UN World Health Organization, of the 36 hospitals in the war-ravaged enclave, only 11 are functioning.⁵³⁰ By December 19, WHO reported that all hospitals in northern Gaza had been occupied, besieged, or had succumbed to lack of supplies as a result of the Israeli invasion.⁵³¹ Further, aid clinics run by international NGOs like Medecins Sans Frontieres have also been repeatedly targeted by Israeli forces.⁵³² These statistics, which capture the unprecedented scale of Israel's ongoing onslaughts against Palestinian civilians and medical institutions protected under IHL indicate its intent to

⁵²⁵ World Health Organization Occupied Palestinian Territory, 'Emergency Situation Update' (WHO, 29 December 2023) <[www.emro.who.int/images/stories/Sitrep - issue 19.pdf](http://www.emro.who.int/images/stories/Sitrep_issue_19.pdf)> accessed 18 February 2024.

⁵²⁶ World Health Organization Occupied Palestinian Territory, 'Emergency Situation Update' (WHO, 29 December 2023) <[www.emro.who.int/images/stories/Sitrep - issue 19.pdf](http://www.emro.who.int/images/stories/Sitrep_issue_19.pdf)> accessed 18 February 2024.

⁵²⁷ Healthcare Workers Watch, '1.1.2024 HWW-Palestine Update' (Instagram, 3 January 2024) <www.instagram.com/p/C1nsHbuo_jv/> accessed 18 February 2024.

⁵²⁸ AJ Plus, 'Israeli forces are abducting and torturing Palestinian health care workers' (Twitter, 19 December 2023) <<https://twitter.com/ajplus/status/1737203955610927458>> accessed 18 February 2024.

⁵²⁹ Forensic Architecture, 'Destruction of Medical Infrastructure in Gaza', (*Forensic Architecture*) <<https://forensic-architecture.org/investigation/destruction-of-medical-infrastructure-in-gaza#:~:text=The%20impact%20of%20this%20systematic,the%20north%20of%20the%20strip.>>> accessed 18 February 2024.

⁵³⁰ WHO, 'Lifesaving medical care collapsing under assault in Gaza: WHO' (WHO, 16 February 2024) <<https://news.un.org/en/story/2024/02/1146632>> accessed 18 February 2024.

⁵³¹ United Nations Office at Geneva, 'UPDATED: Injured patients 'waiting to die' in northern Gaza as last hospital shuts down, amid rising 'catastrophic' hunger levels' (*United Nations*, 21 December 2023) <www.ungeneva.org/en/news-media/news/2023/12/88779/updated-injured-patients-waiting-die-northern-gaza-last-hospital> accessed 18 February 2024.

⁵³² Medecins Sans Frontieres, 'Gaza: MSF clinic in Gaza city came under fire' (*MSF*, 21 November 2023) <www.doctorswithoutborders.ca/gaza-msf-clinic-in-gaza-city-came-under-fire/> accessed 18 February 2024.

kill and cause serious bodily harm to Palestinians without distinction between combatant and non-combatant.

248. Additionally, Israel has also attacked humanitarian convoys evacuating the sick and wounded, and carrying medical aid into Gaza. On November 7, Israel attacked a medical convoy of the International Committee of the Red Cross, destroying two trucks carrying life-saving medical supplies and wounding one of the drivers.⁵³³ On November 18, another Israeli attack on a Medecin Sans Frontieres convoy, evacuating its medical staff from northern Gaza killed one and injured another.⁵³⁴ In both cases, convoys were marked with their insignia and did not pose any security threat to Israel.⁵³⁵ Another attack on a convoy of ambulances outside Al-Shifa hospital on November 3 killed 15 sick Palestinians being transported to Rafah for treatment and further wounded 60 more.⁵³⁶ Israel justified the attack claiming that several Hamas operatives were inside the ambulances and had been killed in the attack.⁵³⁷ Israeli forces also claimed that ambulances are routinely used to transfer weapons by armed groups.⁵³⁸ No evidence was

⁵³³ Helen Sullivan and others, 'Israel-Hamas war: convoy of five trucks hit by fire – as it happened' *The Guardian* (London, 8 November 2023) <www.theguardian.com/world/live/2023/nov/07/israel-hamas-war-live-updates-gaza-security-responsibility-for-gaza-netanyahu-palestine> accessed 18 February 2024.

⁵³⁴ Medecins Sans Frontieres, 'Gaza: MSF condemns deliberate attack on a convoy transporting staff, resulting in one death and one injury' (*MSF*, 18 November 2023) <www.doctorswithoutborders.ca/gaza-msf-condemns-deliberate-attack-on-a-convoy-transporting-staff-resulting-in-one-death-and-one-injury/#:~:text=One%20person%20was%20killed%20and,to%20evacuate%20from%20northern%20Gaza> accessed 18 February 2024.

⁵³⁵ Medecins Sans Frontieres, 'Gaza: MSF condemns deliberate attack on a convoy transporting staff, resulting in one death and one injury' (*MSF*, 18 November 2023) <www.doctorswithoutborders.ca/gaza-msf-condemns-deliberate-attack-on-a-convoy-transporting-staff-resulting-in-one-death-and-one-injury/#:~:text=One%20person%20was%20killed%20and,to%20evacuate%20from%20northern%20Gaza> accessed 18 February 2024.

⁵³⁶ Al Jazeera, 'Israeli air strike on ambulances kills 15, injures 60, Gaza officials say' (*Al Jazeera*, 3 November 2023) <www.aljazeera.com/news/2023/11/3/several-killed-in-israeli-attack-on-ambulance-convoy-gaza-health-ministry> accessed 18 February 2024.

⁵³⁷ Andrew Carey, Tara John and Kevin Flower, 'Israel admits airstrike on ambulance near hospital that witnesses say killed and wounded dozens' (*CNN*, 4 November 2023) <<https://edition.cnn.com/2023/11/03/middleeast/casualties-gazas-shifa-hospital-IDF/index.html>> accessed 18 February 2024.

⁵³⁸ Andrew Carey, Tara John and Kevin Flower, 'Israel admits airstrike on ambulance near hospital that witnesses say killed and wounded dozens' (*CNN*, 4 November 2023)

provided to prove this specific claim. By deliberately blurring the line between the sick, wounded, and medical aid providers on the one hand, and Palestinian combatants on the other, Israel seeks to create a legal and moral rationale for ‘decivilianizing’ all Palestinians. Further, attacks upon aid convoys transporting injured Palestinians to hospitals outside of Gaza and bringing medical aid into Gaza, unprecedented in scale with respect to Israel’s past wars on Gaza, are instructive of an intent to kill, cause bodily harm, and create conditions of life aimed to destroy Palestinian life in Gaza.

249. Israel has also prevented the entry of life-saving medical supplies into Gaza, including “oxygen cylinders, gas-powered generators, tents and medical kits used in delivering babies”.⁵³⁹ Items that Israel has banned from entering Gaza include metal poles for constructing make-shift medical tents, scalpels needed to deliver babies, and solar-powered medical equipment as substitutes for devices operated on electricity.⁵⁴⁰ Furthermore, Israel controls Gaza’s electricity and has withheld supply since October, exhausting the battery-operated generators on which hospitals normally run. On November 9, four premature babies in northern Gaza’s Al-Nasr hospital, who were placed in incubators died after Israel bombed the hospital’s oxygen supply and forced staff to evacuate without them at gunpoint.⁵⁴¹ Their bodies were found decomposing inside the paediatric ward three weeks later.⁵⁴² Pregnant mothers in Gaza have also been undergoing C-sections without anaesthesia or pain medication, and young mothers have been

<<https://edition.cnn.com/2023/11/03/middleeast/casualties-gazas-shifa-hospital-IDF/index.html>> accessed 18 February 2024.

⁵³⁹ Lee Keath, ‘Cumbersome process and ‘arbitrary’ Israeli inspections slow aid delivery into Gaza, US senators say’ (*AP News*, 6 January 2024) <<https://apnews.com/article/israel-gaza-rafah-aid-us-senators-2bc2a3c5e5f8af8e2d3fob7242c1a885>> accessed 18 February 2024.

⁵⁴⁰ Lee Keath, ‘Cumbersome process and ‘arbitrary’ Israeli inspections slow aid delivery into Gaza, US senators say’ (*AP News*, 6 January 2024) <<https://apnews.com/article/israel-gaza-rafah-aid-us-senators-2bc2a3c5e5f8af8e2d3fob7242c1a885>> accessed 18 February 2024.

⁵⁴¹ Yasmine Salam, Rima Abdelkader and Matthew Mulliga, ‘Abandoned babies found decomposing in Gaza hospital weeks after it was evacuated’ (*NBC News*, 2 December 2023) <www.nbcnews.com/news/world/abandoned-babies-found-decomposing-gaza-hospital-evacuated-rcna127533> accessed 18 February 2024.

⁵⁴² Erin Kilbride and Bill Van Esveld, ‘Birth and Death Intertwined in Gaza Strip’ (*Human Rights Watch*, 1 December 2023) <www.hrw.org/news/2023/12/01/birth-and-death-intertwined-gaza-strip> accessed 18 February 2024.

compelled to undergo forced hysterectomies as an alternative to haemorrhaging to death—a form of forced sterilisation.⁵⁴³ Deliberately inflicting these conditions upon civilian life underscores Israel’s genocidal intent to destroy Palestinian life in Gaza. In particular, Israel’s extensive attacks on Palestinian gynaecological and paediatric infrastructure constitute measures that aim to prevent the birth of Palestinian children—another indication of the genocidal intent behind its war on Gaza.

Proximity of medical units to military targets

250. The proximity of medical units in Gaza to legitimate military targets allows Israel to portray all medical units as proximate shields—objects that become targets merely because they are too close to other targets. By extension, therefore, the proximity of the civilian population to medical facilities in Gaza, and Israel’s unqualified characterizations of medical units as proximate human shields render large swathes of Gaza’s civilian population into legitimate military targets as per Israel.

⁵⁴³ Zena Chamas, ‘Pregnant mothers in Gaza reportedly facing cesareans without anaesthetic, emergency hysterectomies and death’ (*ABC News*, 28 December 2023) <www.abc.net.au/news/2023-12-29/being-pregnant-in-gaza-unsafe-women-paying-heaviest-price-in-war/103241724> accessed 18 February 2024; United Nations News, ‘Interview: 5,500 women in Gaza set to give birth ‘in race against death’’ (*United Nations News*, 7 November 2023) <<https://news.un.org/en/interview/2023/11/1143327>> accessed 18 February 2024;

Juzoor for Health and Social Development, ‘The ravages of war: impact on mothers & newborns in Gaza’ (*Juzoor for Health and Social Development*, 11 November 2023)

<www.juzoor.org/cached_uploads/download/2023/11/11/maternal-health-report-final-1699726911.pdf>

accessed 18 February 2024; Al Jazeera Arabic, ‘50 ألف امرأة حامل في غزة يواجهن مصيرا مجهولا’ 50 thousand pregnant women in Gaza face an unknown fate’ (*Al Jazeera Arabic*, 30 October 2023) <

‘ (50 thousand pregnant women in Gaza face an unknown fate)’

“;50 ألف امرأة حامل في غزة يواجهن مصيرا مجهولا” Al Jazeera Arabic (30 October 2023),

<<https://www.aljazeera.net/women/2023/10/30/%D8%AA%D8%B1%D9%88%D9%89-%D9%84%D8%A3%D9%88%D9%84-%D9%85%D8%B1%D8%A9-%D8%AA%D9%81%D8%A7%D8%B5%D9%8A%D9%84-%D9%85%D8%B1%D8%B9%D8%A8%D8%A9-%D8%B9%D9%86-%D9%88%D8%A7%D9%82%D8%B9-50-%D8%A3%D9%84%D9%81>>

accessed 18 February 2024; Nadine Khammash, ‘Interview with Dr Mai Al-Kaileh (Palestinian Minister of Health) on Al Arabiya’ (Instagram, 27 December 2023)

<www.instagram.com/reel/C1W2QFCvmM8/?igsh=YnkiNjRzdndnaHM5> accessed 18 February 2024.

251. It is important to recognize that Gaza is a densely populated, besieged enclave of 1.7 million refugees forcibly displaced by Zionist militias during the 1948 Nakba.⁵⁴⁴ Palestinian civilians have not chosen their proximity to armed resistance groups operating from within Gaza but have been forced into what has been called the largest open-air prison in the world.⁵⁴⁵ On the other hand, Palestinians living in Gaza also enjoy the right to armed resistance against colonisation, occupation, and apartheid under international law and in consistent with the principles of the UN Charter.⁵⁴⁶ Therefore, while Palestinian resistance factions must not endanger civilian populations during military operations and are obliged to adhere to principles of distinction and precaution, refraining from using civilians as human shields, the spatial constraints within Gaza cannot serve as grounds for Israel to categorize all protected individuals and objects as potential human shields. Moreover, these constraints do not absolve Israel from its obligations under international humanitarian law, nor does it grant license to dilute or disregard this law and its intended significance in times of war. Yet, scholars argue that proximate shielding is an especially conducive argument used by states like Israel to justify the application of lethal violence in armed conflict, predominantly in contexts relating to the war on terror.⁵⁴⁷

252. By weaponizing the proximity argument to justify indiscriminate attacks against Palestinian civilians close to medical facilities, Israel has constructed a legal rationale for the crime of genocide against the Palestinian people. For instance, Israel has attacked several neighbourhoods surrounding hospitals since October 7, 2023, based on the proximate shield argument. Investigative research agency Forensic Architecture reports

⁵⁴⁴ UNRWA, 'About UNRWA' (UNRWA, 2012) <www.unrwa.org/userfiles/2012050753530.pdf> accessed 18 February 2024, 17.

⁵⁴⁵ Application Instituting Proceedings by South Africa Against the State of Israel, 29 December 2023.

⁵⁴⁶ Law for Palestine, 'The Palestinian people have the right of resistance by all means consistent with the principles of the UN Charter | Dr. Shahd Hammouri' (Law for Palestine, 8 October 2023) <<https://law4palestine.org/the-palestinian-people-have-the-right-to-resistance-by-all-means-available-at-their-disposal-dr-shahd-hammouri/>> accessed 18 February 2024.

⁵⁴⁷ Neve Gordon and Nicola Perugini, 'Proximate 'human shields' and the challenge for humanitarian organizations' (ICRC Law and Policy Blog, 18 November 2021) <<https://blogs.icrc.org/law-and-policy/2021/11/18/proximate-human-shields/>> accessed 18 February 2024.

that several neighbourhoods surrounding prominent hospitals in north Gaza including Al-Ahli Hospital, Indonesian Hospital, Kamal Adwan Hospital, Turkish Hospital, and others were invaded by Israeli ground forces and subjected to heavy shelling leading up to their siege.⁵⁴⁸ Recently, as the focus of the Israeli battery has moved to southern Gaza, neighbourhoods surrounding Nasser Hospital in southern cities like Khan Younis have become the target of attacks and counted high civilian deaths.⁵⁴⁹ These attacks, justified by Israel’s human shields arguments, demonstrate its sustained attempt to argue for the ‘de-civilianisation’ of Palestinians and explain the genocidal intent behind Israel’s war on Gaza.

5.3.5 Over-inclusive rhetoric and “medical lawfare”

253. During Israel’s current war on Gaza, state, military, and public officials have claimed that all medical units including hospitals and ambulances in Gaza are human shields used by Palestinian fighters.⁵⁵⁰ The goal of over-inclusive rhetoric by officials is to create an umbrella justification for all past and future acts of aggression against protected medical objects which would normally constitute violations of IHL.⁵⁵¹ This “medical lawfare” argument—“ a strategy adopted by the Israeli military and government to legitimise attacks on lifesaving and sustaining infrastructures by shifting the blame for these attacks

⁵⁴⁸ Forensic Architecture, ‘Destruction of Medical Infrastructure in Gaza’ (*Forensic Architecture*) <<https://forensic-architecture.org/investigation/destruction-of-medical-infrastructure-in-gaza>> accessed 18 February 2024.

⁵⁴⁹ Al Jazeera English, ‘One child killed and several people injured in Israeli strike on maternity ward at Nasser hospital’ (YouTube, 18 December 2023) <www.youtube.com/watch?v=sPaJGJgaJsI> accessed 18 February 2024.

⁵⁵⁰ News Nation, ‘Israeli gov. spokesman: Hamas strategy based on human shields | NewsNation Live’ (YouTube, 18 December 2023) <www.youtube.com/watch?v=GgLUolTo9sE> accessed 18 February 2024.

⁵⁵¹ “The notion of human shields, when applied so broadly, allows Israel to pre-emptively say everything is a legitimate target,” said Daniel Levy, a former Israeli peace negotiator who is now president of the U.S. Middle East Project, a policy institute” in Helene Cooper, ‘Israel Says Hospital Held Hamas Command Center: How Long Could It Take for Proof?’ *The New York Times* (New York, 17 November 2023) <www.nytimes.com/2023/11/17/us/politics/israel-al-shifa-hospital-hamas-evidence.html> accessed 18 February 2024.

on to the Palestinians themselves”—constitutes a third segment of Israel’s concerted attempt to ‘decivilianise’ the entire Palestinian population.⁵⁵² This argument is mobilised to justify genocide in two ways; it transforms medical units, their personnel and the tens of thousands of civilians sheltering in them into legitimate military targets; it tries to legitimise the eradication and elimination of an entire life-saving health sector which serves 2.3 million people.

254. In the past, Israel has justified lone attacks against hospitals and medical personnel in Gaza through the human shields argument although in several cases evidence provided by Israel to justify its claims has crumbled under scrutiny.⁵⁵³ Unlike the past, however, since October 7, 2023, Israel is no longer justifying the legality of specific attacks on medical units through the human shields argument. Instead, Israeli officials and the Israeli Forces have repeatedly claimed, in public, that as Hamas has an alleged history of using medical units as human shields, all medical facilities are therefore legitimate targets.⁵⁵⁴

255. Accordingly, on November 12, the Israeli Forces’ official handle tweeted on X:

‘For Hamas, ambulances are used to transport its operatives and weapons, to disguise them as civilians and hospitals are in fact terrorist infrastructure...not the most medical purpose. This is against international law and turns them into medical targets.’⁵⁵⁵

⁵⁵² Nicola Perugini and Neve Gordon, ‘Medical Warfare: The Nakba and Israel’s Attacks on Palestinian Healthcare’ (Spring 2024) *Journal of Palestine Studies* (forthcoming).

⁵⁵³ Neve Gordon and Nicola Perugini, ‘The fallacy of Israel’s human shields claims in Gaza’ (*Al Jazeera*, 18 June 2018) <www.aljazeera.com/opinions/2018/6/18/the-fallacy-of-israels-human-shields-claims-in-gaza> accessed 18 February 2024.

⁵⁵⁴ Israel Defense Forces ‘Hamas’ Human Shields: Gazans’ (YouTube, 1 December 2023) <www.youtube.com/watch?v=OHkzBkBGMTA> accessed 18 February 2024.

⁵⁵⁵ Censored Men, ‘The IDF deleted a tweet in which they called hospitals and ambulances “legitimate military targets”’ (Twitter, 13 November 2023) <<https://twitter.com/censoredmen/status/1724026371511362026?s=21&t=aFnX8cakDpW-3-glmfifJg>> accessed 18 February 2024.

256. The Israeli Forces tweet, which was deleted later, refers to the exceptional circumstances in which a medical unit can lose its protected legal status during an armed conflict under IHL if there are reasonable grounds to believe that it is being used for a non-humanitarian function.⁵⁵⁶ The Israeli Forces did not qualify its statement to indicate that this argument applies to only those medical units in Gaza being used for non-humanitarian purposes. Neither did it provide evidence that all medical units in Gaza are being used for terrorist activity. This vagueness allows the Israeli Forces to justify the execution of 374 Palestinian medics across 294 attacks on medical units of varying descriptions across Gaza throughout three months of war without specifying precisely what non-humanitarian function each targeted object was responsible for.

257. Similarly, on November 8, a few days after the lethal attack on the convoy of ambulances outside Al-Shifa hospital, the Israeli Forces released unverified evidence of a phone call between a Hamas personnel and a Palestinian man in Gaza, where the former bragged of his ability to escape undetected via any ambulance in Gaza.⁵⁵⁷ The evidence did not provide any specific details about the location or identity of the supposed combatant or to which ambulance(s) he was referring.⁵⁵⁸ Yet, this unverified evidence gave broad cover to the unlawful attack upon the Al-Shifa convoy, without addressing the particulars of whether or not the targeted convoy had met the threshold of being used for a ‘non-humanitarian purpose’ thereby losing its protection under IHL.

258. It is also important to emphasise that past allegations made by Israel that medical units are used as human shields by Hamas have been repeatedly dismissed by United

⁵⁵⁶ International Committee of the Red Cross, ‘The protection of hospitals during armed conflicts: What the law says’ (ICRC, 2 November 2023) <www.icrc.org/en/document/protection-hospitals-during-armed-conflicts-what-law-says> accessed 18 February 2024.

⁵⁵⁷ Emanuel Fabian and Michael Horovitz, ‘ Hamas operative boasts he ‘can leave with any ambulance,’ in call overheard by IDF’ *The Times of Israel* (Jerusalem, 8 November 2023) <www.timesofisrael.com/hamas-operative-boasts-he-can-leave-with-any-ambulance-in-call-overheard-by-IDF/> accessed 18 February 2024.

⁵⁵⁸ Emanuel Fabian and Michael Horovitz, ‘ Hamas operative boasts he ‘can leave with any ambulance,’ in call overheard by IDF’ *The Times of Israel* (Jerusalem, 8 November 2023) <www.timesofisrael.com/hamas-operative-boasts-he-can-leave-with-any-ambulance-in-call-overheard-by-IDF/> accessed 18 February 2024.

Nations fact-finding commissions and independent media.⁵⁵⁹ Throughout the 2023-24 war, independent actors have documented evidence fabricated by Israel to justify claims that Palestinian combatants are using protected persons and objects, including medical units, as human shields.⁵⁶⁰ For instance, the Israeli Ministry of Foreign Affairs' official Arabic Twitter account shared a staged video⁵⁶¹ (later deleted but had gone viral through other accounts)⁵⁶² of a Mexican-Israeli nurse claiming to be a Hamas fighter occupying Al-Shifa hospital to justify militarily targeting hospitals, which was later exposed by foreign journalists.⁵⁶³

259. Given the sweeping nature of Israeli rhetoric surrounding Palestinian medical units and their purported, unverified use as human shields by Hamas fighters, it is clear that Israel considers all medical infrastructure in Gaza to be legitimate military targets. This argument thus boosts Israeli attempts to decivilianise Palestinians, clearing legal ground for non-distinction between civilian and combatant, and further cement Israel's intent to commit and justify genocide. It's important to emphasize that the purpose of the argument above is not to confirm or deny the use of human shields by Hamas or other Palestinian armed groups. Rather, it aims to underscore Israel's consistent and systematic use of the human shield narrative, often without credible evidence. This narrative serves to delegitimize the civilian status of the entire Gaza population, seemingly legitimizing Israel's genocidal actions, even when they result in the deaths of thousands of children and civilians.

⁵⁵⁹ UNGA Human Rights Council, 'Human Rights in Palestine and Other Occupied Arab Territories: Report of the United Nations Fact-Finding Mission on the Gaza Conflict' (25 September 2009) UN Doc [A/HRC/12/48](#).

⁵⁶⁰ Apoorvanand, 'The World Must Wake Up to Israel's Lies' *The Wire* (16 November 2023) <<https://thewire.in/world/the-world-must-wake-up-to-israels-lies>> accessed 18 February 2024.

⁵⁶¹ Al Jazeera 'Fact or Fiction: Israel needs fake nurses to justify killing Gaza babies' (*Al Jazeera*, 17 November 2023) <<https://www.aljazeera.com/opinions/2023/11/17/fact-or-fiction-israel-needs-fake-nurses-to-justify-killing-gaza-babies>> accessed 18 February 2024.

⁵⁶² אדי כהן Edy Cohen. @DREDYCOHEN (*Twitter*, 11 November 2023) <<https://twitter.com/DREDYCOHEN/status/1723364923290374566>> accessed 18 February 2024.

⁵⁶³ Cataline Marchant de Abreu, 'Video of 'nurse' denouncing Hamas occupation of Gaza's Al-Shifa Hospital is staged' *France 24*, 15 November 2023) <www.france24.com/en/tv-shows/truth-or-fake/20231115-video-of-nurse-denouncing-hamas-occupation-of-al-shifa-hospital-in-gaza-is-fake> accessed 18 February 2024.

5.3.6 Forced evacuations

260. Forced evacuation is a part of Israel's campaign against medical units in Gaza. During campaigns against certain hospitals in northern Gaza, Israeli forces have issued warnings to medical personnel and patients requiring them to evacuate the premises before invading and occupying the building. WHO documents that the Israeli Forces issued evacuation orders to 23 hospitals in northern Gaza in October 2023, forcibly displacing over 2,000 sick and wounded Palestinians admitted to hospitals in southern Gaza.⁵⁶⁴ In many cases, sick and wounded Palestinians and medical staff are unable to comply with evacuation orders. Israeli forces treat such Palestinians as proximate human shields of the Palestinian resistance and therefore legitimate military targets.⁵⁶⁵ In the past, the Israeli Forces have dropped pamphlets on civilian neighbourhoods in Palestine stating those failing to evacuate will be treated as 'an accomplice in a terrorist organization'.⁵⁶⁶ This is thus a fourth form of 'decivilianisation' to which Palestinians in Gaza are subjected, permitting Israel to justify indiscriminate civilian casualties, and framing another legal expression of its genocidal intent.

261. The inability of patients and staff to respond to evacuation orders stems from several factors. First, the Israeli Forces provides very short notice of evacuation requirements to civilians. For instance, on November 18, 2023, after several days of conducting attacks in

⁵⁶⁴ World Health Organization, 'Evacuation orders by Israel to hospitals in northern Gaza are a death sentence for the sick and injured' (*WHO*, 14 October 2023) <www.who.int/news/item/14-10-2023-evacuation-orders-by-israel-to-hospitals-in-northern-gaza-are-a-death-sentence-for-the-sick-and-injured> accessed 18 February 2024.

⁵⁶⁵ Federica Marsi, 'What is a 'human shield' and why is Israel using the term in Gaza?' (*Al Jazeera*, 13 November 2023) <www.aljazeera.com/news/2023/11/13/what-is-a-human-shield-and-why-is-israel-using-the-term-in-gaza#:~:text=The%20Israeli%20army%20has%20used,used%20hospitals%20for%20military%20purposes> accessed 18 February 2024.

⁵⁶⁶ Federica Marsi, 'What is a 'human shield' and why is Israel using the term in Gaza?' (*Al Jazeera*, 13 November 2023) <www.aljazeera.com/news/2023/11/13/what-is-a-human-shield-and-why-is-israel-using-the-term-in-gaza#:~:text=The%20Israeli%20army%20has%20used,used%20hospitals%20for%20military%20purposes> accessed 18 February

its vicinity, the Israeli Forces gave Al Shifa Hospital one hour to evacuate 7,000 people.⁵⁶⁷ Second, the indiscriminate onslaught upon Gaza and the permanent siege on the strip makes the act of evacuation near impossible.⁵⁶⁸ For instance, Israel deprives Gaza of access to fuel which compels displaced Palestinians to evacuate from the north to the south by foot. This is unfeasible for those with wounded patients and amputees in their immediate family—a vast majority of the civilians inside hospitals in Gaza. In the past, Israel has also bombed the Rafah border crossing through which diasporic Palestinians with foreign citizenships have escaped to Egypt.⁵⁶⁹ In some instances, Palestinians who have followed evacuation orders or moved to designated safe zones have also been targeted by Israeli strikes.⁵⁷⁰ Thus, some Palestinians ignore evacuation orders because nowhere in Gaza is safe.⁵⁷¹

262. Additionally, terminally ill and critically injured patients, orphaned children, and premature new-born babies have also been unable to leave hospitals in compliance with

⁵⁶⁷ Al Jazeera, ‘Panic as Gaza’s al-Shifa evacuates, Israel army denies ordering it to do so’ (*Al Jazeera*, 18 November 2023) <www.aljazeera.com/news/2023/11/18/israel-gives-gazas-al-shifa-hospital-one-hour-to-evacuate> accessed 18 February 2024.

⁵⁶⁸ World Health Organization, ‘Evacuation orders by Israel to hospitals in northern Gaza are a death sentence for the sick and injured’ (WHO, 14 October 2023) <www.who.int/news/item/14-10-2023-evacuation-orders-by-israel-to-hospitals-in-northern-gaza-are-a-death-sentence-for-the-sick-and-injured> accessed 18 February 2024.

⁵⁶⁹ BBC News, ‘Airstrike hits area of Rafah crossing at Gaza-Egypt border - BBC News’ (YouTube, 16 October 2023) <www.youtube.com/watch?v=SLGy55vAjZM> accessed 18 February 2024.

⁵⁷⁰ Nicola Perugini, ‘Safe zones: Israel’s technologies of genocide’ (*Al Jazeera*, 6 January 2024) <www.aljazeera.com/opinions/2024/1/6/safe-zones-israels-technologies-of-genocide> accessed 18 February 2024;

Al Jazeera, ‘Photos: Israel bombs Gaza areas it declared safe zones for Palestinians’ (*Al Jazeera*, 9 December 2023) <www.aljazeera.com/gallery/2023/12/9/photos-israel-bombs-gaza-areas-it-called-safe-zones-for-palestinians> accessed 18 February 2024; NBC News, ‘70 killed after convoys of evacuees in Gaza hit by Israeli airstrikes’ (*NBC News*, 14 October 2023) <www.nbcnews.com/news/world/live-blog/israel-amas-war-live-updates-rcna120252> accessed 18 February 2024.

⁵⁷¹ Al Jazeera, ‘From north to south, nowhere safe in Gaza as 700 killed in 24 hours’ (*Al Jazeera*, 3 December 2023) <www.aljazeera.com/gallery/2023/12/3/from-north-to-south-nowhere-safe-in-gaza-as-700-killed-in-24-hours#:~:text=From%20the%20north%20to%20the,are%20buried%20under%20the%20rubble> accessed 18 February 2024.

military demands.⁵⁷² In the case of Al-Shifa hospital, when such individuals failed to comply with the evacuation orders, Israeli soldiers forced 500 of them onto the streets at gunpoint.⁵⁷³ Family members and children of wounded patients were forced by soldiers to roll out the injured on wheelchairs and rolling beds onto the street in a single file while waving white handkerchiefs in the air.⁵⁷⁴ 120 critical patients including amputees and premature babies could not be evacuated and had to be left behind.⁵⁷⁵ Of the 39 premature babies who needed incubators to survive at Al Shifa and were left behind during the forced evacuations, only 28 survived.⁵⁷⁶

263. Some doctors, nurses, and medics also refuse to abandon patients in need and displaced persons seeking refuge inside hospital premises and choose to stay back.⁵⁷⁷ Such doctors are treated as legitimate military targets by Israel. In November, two Médecins Sans Frontières-affiliated doctors were killed in an airstrike at Al Awda hospital after

⁵⁷²World Health Organization, ‘Evacuation orders by Israel to hospitals in northern Gaza are a death sentence for the sick and injured’ (*WHO*, 14 October 2023) <www.who.int/news/item/14-10-2023-evacuation-orders-by-israel-to-hospitals-in-northern-gaza-are-a-death-sentence-for-the-sick-and-injured> accessed 18 February 2024.

⁵⁷³ Al Jazeera, ‘Panic as Gaza’s al-Shifa evacuates, Israel army denies ordering it to do so’ (*Al Jazeera*, 18 November 2023) <www.aljazeera.com/news/2023/11/18/israel-gives-gazas-al-shifa-hospital-one-hour-to-evacuate> accessed 18 February 2024.

⁵⁷⁴Al Jazeera, ‘Panic as Gaza’s al-Shifa evacuates, Israel army denies ordering it to do so’ (*Al Jazeera*, 18 November 2023) <www.aljazeera.com/news/2023/11/18/israel-gives-gazas-al-shifa-hospital-one-hour-to-evacuate> accessed 18 February 2024.

⁵⁷⁵Al Jazeera, ‘What we know about evacuation of Gaza’s al-Shifa hospital’ (*Al Jazeera*, 18 November 2023) <www.aljazeera.com/program/newsfeed/2023/11/18/what-we-know-about-evacuation-of-gazas-al-shifa-hospital#:~:text=Doctors%20say%20at%20about%20450,hospital%20one%20hour%20to%20evacuate> accessed 18 February 2024.

⁵⁷⁶Al Jazeera English, ‘Gaza premature babies evacuated: 28 moved from al-Shifa hospital to Egypt’ (YouTube, 20 November 2023) <www.youtube.com/watch?v=XPNicdzIZG8> accessed 18 February 2024.

⁵⁷⁷Linah Alsaafin and Ruwaida Amer, ‘Defying bone-crushing exhaustion, Gaza’s doctors work despite Israel’s war’ (*Al Jazeera*, 20 October 2023) <www.aljazeera.com/news/2023/10/20/defying-bone-crushing-exhaustion-gazas-doctors-work-despite-israels-war#:~:text=Defying%20Israeli%20military%20orders%20to,%2C%E2%80%9D%20al%2DDergan%20said> accessed 18 February 2024.

failing to evacuate.⁵⁷⁸ After the evacuation deadline passed at Al-Shifa Hospital, dozens of medical staff including the hospital director were arrested by Israeli forces, tortured, and interrogated and have not been released.⁵⁷⁹ In December, staff at Kamal Adwan Hospital in northern Gaza were issued evacuation orders and staff between the ages of 16 and 65 were forcibly searched. ⁵⁸⁰ Following the evacuation and search, nearly 70 staff members were abducted by Israeli forces and taken to an undisclosed location.⁵⁸¹

264. Israeli forces issue evacuation orders to medical establishments without consideration of whether evacuation is feasible and without intending to minimise civilian casualties. Rather, failure to evacuate within a short period, usually one to two hours in the early hours of the day or late hours of the night, allows the Israeli Forces to treat the remaining Palestinians as accomplices of Palestinian combatants. Such an effort to ‘decivilianise’ the population, especially given the impossibility of evacuation, is a clear indication of Israel’s intent to destroy the Palestinian people.

The Attack on Al Shifa Hospital

265. The invasion and siege of Al Shifa Hospital in northern Gaza on November 15, 2023, by the Israeli Forces was not only an egregious war crime, but it also exemplified how Israel has been wielding the human shields argument to systematically target medical

⁵⁷⁸Medicins Sans Frontieres, ‘MSF doctors killed in strike on Al Awda hospital in Northern Gaza’ (*MSF*, 21 November 2023) <www.doctorswithoutborders.ca/msf-doctors-killed-in-strike-on-al-awda-hospital-in-northern-gaza/> accessed 18 February 2024.

⁵⁷⁹Taufiq Wan, ‘Relatives fear Israel torturing Gaza doctor to fabricate Al Shifa hospital claims’ (*The New Arab*, 10 December 2023) <www.newarab.com/news/gaza-doctor-abducted-al-shifa-feared-tortured-israel#:~:text=Dr%20Saleh%20Eleiwa%20was%20among%20dozens%20of%20medical%20staff%20%E2%80%93%20including,are%20being%20held%20without%20charge> accessed 18 February 2024.

⁵⁸⁰ Ibrahim Dahman, Tim Lister and Tara John, ‘Gaza healthcare workers ‘taken’ by Israeli forces, says doctor, amid ‘horrendous conditions’ at hospitals’ (*CNN*, 13 December 2023) <<https://edition.cnn.com/2023/12/13/middleeast/gaza-kamal-adwan-hospital-doctors-IDF-intl/index.html>> accessed 18 February 2024.

⁵⁸¹ Ibrahim Dahman, Tim Lister and Tara John, ‘Gaza healthcare workers ‘taken’ by Israeli forces, says doctor, amid ‘horrendous conditions’ at hospitals’ (*CNN*, 13 December 2023) <<https://edition.cnn.com/2023/12/13/middleeast/gaza-kamal-adwan-hospital-doctors-IDF-intl/index.html>> accessed 18 February 2024.

infrastructure in Gaza. Moreover, the attack on Al-Shifa demonstrates how Israel manipulated and fabricated evidence during the war to de-civilianise Palestinian people and target protected objects like medical units in Gaza.

266. At 2 AM on November 15, 2023, Israeli forces surrounded Al-Shifa Hospital, Gaza's largest medical centre.⁵⁸² Several hundred patients, displaced persons, and staff, who could not be evacuated remained inside the hospital even as soldiers stormed the compounds.⁵⁸³ Some were forcibly evacuated and several were arrested and abducted by Israeli forces.⁵⁸⁴ The siege on Al-Shifa destroyed its medical capacity and forced critically ill and wounded patients onto the streets of northern Gaza⁵⁸⁵. At least 22 patients died overnight during the raid as a result of Israeli attacks on power and oxygen infrastructure at the hospital. ⁵⁸⁶

267. In the days leading up to its siege, Israeli Forces leaders and state officials claimed that Al Shifa was operating as a human shield because Hamas fighters were using a tunnel complex beneath the hospital to stage attacks. Israeli officials alleged that five hospital buildings were directly involved in Hamas activities, that the buildings sat atop underground tunnels that were used by militants to direct rocket attacks and command

⁵⁸² Kelly Kasulis Cho, Sammy Westfall and Bryan Pietsch, 'What to know about Gaza's al-Shifa Hospital' *The Washington Post* (Washington, 15 November 2023) <www.washingtonpost.com/world/2023/11/15/israel-gaza-al-shifa-hospital-hamas-map/> accessed 18 February 2024.

⁵⁸³ Kelly Kasulis Cho, Sammy Westfall and Bryan Pietsch, 'What to know about Gaza's al-Shifa Hospital' *The Washington Post* (Washington, 15 November 2023) <www.washingtonpost.com/world/2023/11/15/israel-gaza-al-shifa-hospital-hamas-map/> accessed 18 February 2024.

⁵⁸⁴ Al Jazeera, 'Israeli army arrests al-Shifa Hospital director, other doctors in Gaza' (*Al Jazeera*, 23 November 2023) <www.aljazeera.com/news/2023/11/23/al-shifa-hospital-director-arrested-by-israeli-army-in-gaza> accessed 18 February 2024.

⁵⁸⁵ Al Jazeera, 'More than 20 patients die at Gaza's al-Shifa Hospital amid Israeli raid' (*Al Jazeera*, 17 November 2023) <www.aljazeera.com/news/2023/11/17/more-than-20-patients-die-at-gazas-al-shifa-hospital-amid-israeli-raid> accessed 18 February 2024.

⁵⁸⁶ Al Jazeera, 'More than 20 patients die at Gaza's al-Shifa Hospital amid Israeli raid' (*Al Jazeera*, 17 November 2023) <www.aljazeera.com/news/2023/11/17/more-than-20-patients-die-at-gazas-al-shifa-hospital-amid-israeli-raid> accessed 18 February 2024.

fighters, and that the tunnels could be accessed from inside hospital wards.⁵⁸⁷ Israel also claimed the hospital's staff and patients were being used as human shields by Hamas.⁵⁸⁸ Senior leaders in the US independently corroborated these claims on November 14, bolstering Israel's case against the hospital.⁵⁸⁹ The senior leadership of Hamas and the Health Ministry in Gaza denied these claims, however, and called independent investigators to examine whether there were tunnels under the hospital.⁵⁹⁰ Ashraf al-Qidra, a spokesman for the Health Ministry, said that the hospital repeatedly invited international organizations to tour Shifa, but has not received a response.⁵⁹¹

268. After the invasion, the Israeli military released two videos alleging that it had discovered a weapons cache that included 11 guns, three military vests, and nine grenades and that Hamas ran a command centre under the hospital.⁵⁹² Independent Western news agencies analysed the videos and concluded that the Israeli army rearranged and added weapons before inviting journalists to document what they claimed to have discovered inside the hospital.⁵⁹³ The report also asserted that the Israeli video showing the alleged

⁵⁸⁷ Kelly Kasulis Cho, Sammy Westfall and Bryan Pietsch, 'What to know about Gaza's al-Shifa Hospital' *The Washington Post* (Washington, 15 November 2023) <www.washingtonpost.com/world/2023/11/15/israel-gaza-al-shifa-hospital-hamas-map/> accessed 18 February 2024.

⁵⁸⁸ Josef Federman, 'Is Hamas hiding in Gaza's main hospital? Israel's claim is now a focal point in a dayslong stalemate' (*AP News*, 14 November 2023) <<https://apnews.com/article/israel-palestinians-hamas-war-shifa-hospital-ce8fda9821a011a6cb6e4a3df5c90916>> accessed 18 February 2024.

⁵⁸⁹ Trevor Hunnicutt, 'White House says it has evidence Hamas using Al Shifa hospital to run military actions' (*Reuters*, 14 November 2023) <www.reuters.com/world/middle-east/white-house-says-it-has-evidence-hamas-using-al-shifa-hospital-run-military-2023-11-14/> accessed 18 February 2024.

⁵⁹⁰ Associated Press, 'Hamas denies Israel military claim about alleged tunnel under Shifa hospital in Gaza Strip' (YouTube, 20 November 2023) <www.youtube.com/watch?v=ba1C_koyQjA> accessed 18 February 2024.

⁵⁹¹ Associated Press, 'Is Hamas hiding in Gaza's main hospital? Israel's claim is now a focal point in a dayslong stalemate' (Associated Press, 14 November 2023) <<https://apnews.com/article/israel-palestinians-hamas-war-shifa-hospital-ce8fda9821a011a6cb6e4a3df5c90916>> accessed 18 March 2024.

⁵⁹² Nidal Al-Mughrabi, 'Hamas command centre, weapons found at Gaza hospital, Israeli military says' *Reuters* (15 November 2023) <www.reuters.com/world/middle-east/israel-raids-gazas-al-shifa-hospital-2023-11-15/> accessed 18 February 2024.

⁵⁹³ Julian Borger, 'IDF evidence so far falls well short of al-Shifa hospital being Hamas HQ' *The Guardian* (Washington, 17 November 2023) <www.theguardian.com/world/2023/nov/17/IDF-evidence-so-far-falls-well-short-of-al-shifa-hospital-being-hamas-hq> accessed 18 February 2024; Sophie Tanno, Hamdi Alkshali and Oren Liebermann, 'What we know about what Israel says it has found at Al-Shifa' (*CNN*, 20 November 2023) <www.cnn.com/2023/11/20/middleeast/israel-gaza-al-shifa-hospital/index.html> accessed 18 February 2024.

weapons cache had been edited, contrary to the IOF's claim that it had been recorded in a single take.⁵⁹⁴ Israel also claimed to have unveiled evidence that Hamas was operating a tunnel under Al-Shifa as it had claimed before the siege.⁵⁹⁵ Israel published a series of videos in late November alleging that photos and videos it had captured inside Al-Shifa proved its earlier allegations.⁵⁹⁶ A detailed analysis by the Washington Post in December conclusively dismissed these claims.⁵⁹⁷ Independent journalists also claimed that Israel's attack on Al-Shifa was a prolonged propaganda war that failed to meet its military objectives.⁵⁹⁸

269. The case of Al-Shifa is important not only because such an attack on a hospital, an explicit violation of IHL, is unprecedented in scale and unparalleled in modern history. It also exposes how Israel weaponises the human shield argument, augmented by flimsy and fabricated evidence to justify indiscriminate attacks on Gaza's healthcare infrastructure. Similar allegations of Hamas's use of medical units as human shields, made without specific situational evidence, have been used by Israel to justify attacks on several other hospitals in northern Gaza. These cases are each instructive of a pattern of violence against protected objects in Gaza, indicate a deliberate failure to distinguish between

2023) <<https://edition.cnn.com/2023/11/17/middleeast/israel-al-shifa-gaza-what-we-know-intl/index.html>> accessed 18 February 2024.

⁵⁹⁴ Julian Borger, 'IDF evidence so far falls well short of al-Shifa hospital being Hamas HQ' *The Guardian* (Washington, 17 November 2023) <www.theguardian.com/world/2023/nov/17/IDF-evidence-so-far-falls-well-short-of-al-shifa-hospital-being-hamas-hq> accessed 18 February 2024.

⁵⁹⁵ The New York Times, 'Israeli Military Signals Intent to Move Into Southern Gaza' *The New York Times* (New York, 17 November 2023) <www.nytimes.com/live/2023/11/17/world/israel-hamas-gaza-war-news> accessed 18 February 2024; Vicky Wong, 'Israel finds second hostage body near Al-Shifa hospital' (*BBC News*, 17 November 2023) <www.bbc.com/news/world-middle-east-67449095> accessed 18 February 2024.

⁵⁹⁶ Louisa Loveluck and others, 'The case of al-Shifa: Investigating the assault on Gaza's largest hospital' *The Washington Post* (Washington, 21 December 2023) <www.washingtonpost.com/world/2023/12/21/al-shifa-hospital-gaza-hamas-israel/> accessed 18 February 2024.

⁵⁹⁷ Louisa Loveluck and others, 'The case of al-Shifa: Investigating the assault on Gaza's largest hospital' *The Washington Post* (Washington, 21 December 2023) <www.washingtonpost.com/world/2023/12/21/al-shifa-hospital-gaza-hamas-israel/> accessed 18 February 2024.

⁵⁹⁸ Jeremy Scahill, 'Al-Shifa Hospital, Hamas's Tunnels, and Israeli Propoganda' *The Intercept* (21 November 2023) <<https://theintercept.com/2023/11/21/al-shifa-hospital-hamas-israel/>> accessed 18 February 2024.

civilian and combatant and exemplify how Israel's portrayal of hospitals as military targets reflects its genocidal intent.

5.3.7 Conclusion

270. While IHL is clear and explicit that the use of human shields is a war crime, it is evident that human shielding is an increasingly complicated term to use in the context of contemporary warfare. Instead, 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.

271. The creation - and manipulation - of safe zones further manufactures legitimacy that obscures genocidal acts. Not only is the rhetoric of safe zones mobilised to justify wide-scale destruction and extermination outside of these zones, but those within safe zones - such as Rafah - are further targeted under the rhetorical cover that by creating these zones, Israel is protecting civilians.

272. Taken together, the mobilisation of discourse around safe zones and human shields operates to obscure actions that fall within Article 6 of the Rome Statute, instead framing them as proportionate responses to legitimate military targets. These claims thus create plausible deniability of genocide, both by blurring distinctions between civilians and combatants, and by the use of humanitarian rhetoric that hides contradictory military action.

5.4 Destruction of Culture as an indication of Genocidal Intent

273. Raphael Lemkin, the pioneer of the term “genocide” and one of the key figures behind the 1948 Genocide Convention, first conceptualised the crime of genocide as having two components: 1) barbarity against people and 2) vandalism including “malicious destruction of works of art and culture because they represent the specific creations of the genius of such groups”.⁵⁹⁹ Lemkin wrote of vandalism as constitutive of genocide:

“(…) attack targeting a collectivity can also take the form of systematic and organised destruction of the art and cultural heritage in which the unique genius and achievement of a collectivity are revealed in fields of science, arts, and literature. The contribution of any particular collectivity to world culture as a whole forms the wealth of all humanity, even while exhibiting unique characteristics.”⁶⁰⁰

274. Lemkin’s work also enumerated eight techniques of genocide: political, social, cultural, economic, biological, physical, religious, and moral, arguing that “genocide is (...) a composite of different acts of persecution or destruction.”⁶⁰¹ In other words, 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.

275. Over the years, even as Lemkin’s conceptualization of genocide took shape across the world, the cultural component of genocide, deemed by states to be vague and superfluous, was sidelined in political and legal discourse.⁶⁰² At the debates of the Sixth Committee of

⁵⁹⁹Raphael Lemkin, *Axis Rule in Occupied Europe: Analysis, Proposals for Redress* (Columbia University Press, 1944, Publications of the Carnegie Endowment for International Peace) 91.

⁶⁰⁰Raphael Lemkin, *Totally Unofficial: The Autobiography of Raphael Lemkin* (Yale University Press, 2013); Raphael Lemkin, ‘Acts Constituting a General (Transnational) Danger considered as Crimes under International Law’ (Additional explications to the Special Report presented to the 5th Conference for the Unification of Penal Law in Madrid, 14-20 October 1933).

⁶⁰¹ Raphael Lemkin, *Axis Rule in Occupied Europe: Analysis, Proposals for Redress* (Columbia University Press, 1944, Publications of the Carnegie Endowment for International Peace), 82–90, 92.

⁶⁰² UNGA Sixth Committee (3rd Session) ‘Continuation of the consideration of the draft convention on genocide [E/794]: report of the Economic and Social Council [A/633].’ (25 October 1948) UN Doc A/C.6/SR.83, 198, 202, and 203.

the United Nations General Assembly, where articles that would constitute the Genocide Convention were debated and drafted, an Article III on cultural genocide was proposed and defeated. The deleted article read:

“Destroying the specific characteristics of the group by:

- (a) forcible transfer of children to another human group; or
- (b) forced and systematic exile of individuals representing the culture of a group; or
- (c) prohibition of the use of the national language even in private intercourse; or
- (d) systematic destruction of books printed in the national language or of religious works or prohibition of new publications; or
- (e) systematic destruction of historical or religious monuments or their diversion to alien uses, destruction or dispersion of documents and objects of historical, artistic, or religious value and of objects used in religious worship.”⁶⁰³

Colonial powers, states with settler colonial histories, and postcolonial states with large minorities outnumbered the proponents of the article and rejected the article over concerns around their own historical implication in the crime of cultural genocide.⁶⁰⁴

276. While the political history behind the construction of the Genocide Convention may appear of limited relevance, Lemkin’s conception of cultural destruction as an act of genocide has resurfaced as a precedent in several significant rulings of international courts and tribunals. In *Bosnia and Herzegovina v. Serbia*, a 2007 case on the application of the Genocide Convention, the ICJ was asked to determine whether the destruction of Bosnian religious, historical, and cultural monuments and sites during the Bosnian War

⁶⁰³ Convention on the Prevention and Punishment of the Crime of Genocide, First Draft of the Genocide Convention prepared by the United Nations Secretariat, (1947) UN Doc E/447 <www.preventgenocide.org/law/convention/drafts/> accessed 19 February 2024.

⁶⁰⁴ United Nations Economic and Social Council, ‘Report of the Committee and Draft Convention drawn up by the Committee’ (24 May 1948) UN Doc [E/794](#).

of 1992–95 by the Serbian forces could be considered constitutive of the criminal enterprise of genocide.⁶⁰⁵ The court ruled that while the intentional destruction of cultural property “does not fall within the category of acts of genocide set out in Article II of the Convention, (...) the elimination of all traces of the cultural or religious presence of a group” may be “contrary to other legal norms.”⁶⁰⁶

277. In *Croatia v. Serbia*, a 2013 case also on the application of the Genocide Convention, the court decided again that the destruction of cultural heritage in the context of armed conflict falls outside the definition of genocide under the convention.⁶⁰⁷ In the same judgement, the court also stated: “The Court recalls, however, that it may take account of attacks on cultural and religious property in order to establish an intent to destroy the group physically.”⁶⁰⁸ The reference to intent echoed the jurisprudence of the ICTY, which recognised the intentional destruction of cultural heritage as the indicator of the special intent, *dolus specialis*, as constitutive of *mens rea* for genocide.⁶⁰⁹ The tribunal ruled:

“[A]n enterprise attacking only the cultural or sociological characteristics of a human group in order to annihilate these elements which give to that group its own identity distinct from the rest of the community would not fall under the definition of genocide. [W]here there is physical or biological destruction there are often simultaneous attacks on the cultural and religious property and symbols of the

⁶⁰⁵ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)* ICJ Judgement (26 February 2007) [344].

⁶⁰⁶ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)* ICJ Judgement (26 February 2007) [344].

⁶⁰⁷ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, ICJ Judgment (3 February 2015) [390].

⁶⁰⁸ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, ICJ Judgment (3 February 2015) [390].

⁶⁰⁹ *Prosecutor v. Radislav Krstic (Trial Judgment)* IT-98-33-T (2 August 2001) [580]; see also *Prosecutor v. Radislav Krstic (Appeal Judgment)* IT-98-33-A (19 April 2004), dissenting opinion of Judge Shahabuddeen.

targeted group as well, attacks which may legitimately be considered as evidence of an intent to physically destroy the group.”⁶¹⁰

278. The court argued further that the “purposeful eradication of [a group’s] culture and identity resulting in the eventual extinction of the group as an entity distinct from the remainder of the community” could be conceived as destroying a group.⁶¹¹ The court also took note of developments in international law, including Lemkin’s definition of genocide which covered all acts that sought to destroy the social and cultural bases of the group.⁶¹² Specifically, the court argued that “deliberate destruction of mosques and houses belonging to members of the group” could amount to “evidence of intent to destroy the group”.⁶¹³

279. While the ICJ has continued to be reticent in rulings on cultural destruction amounting to an act of genocide, adopting the precedent of the ICTY, in a dissenting opinion on the aforementioned case of *Croatia v. Serbia* Judge Trindade argued that to dissociate biological acts of genocide from the cultural is “utterly superficial, clearly untenable”.⁶¹⁴ Judge Trindade asserted that the consistent pattern of cultural destruction is itself evidence of a desire to annihilate a people.⁶¹⁵ Trindade’s view mirrored Lemkin’s original articulation of genocide as comprising both barbarity and vandalism. Therefore, while acts of cultural destruction cannot amount to an act of genocide in and of itself, court rulings have repeatedly nodded to its proposed codification in the Genocide Convention, and have used it as evidence of intent, a key element in the prosecution of the crime of genocide.

⁶¹⁰ *Prosecutor v. Radislav Krstic (Trial Judgment)* IT-98-33-T (2 August 2001) [580]; see also *Prosecutor v. Radislav Krstic (Appeal Judgment)* IT-98-33-A (19 April 2004), dissenting opinion of Judge Shahabuddeen.

⁶¹¹ *Prosecutor v. Radislav Krstic (Trial Judgment)* IT-98-33-T (2 August 2001) [575]-[580].

⁶¹² *Prosecutor v. Radislav Krstic (Trial Judgment)* IT-98-33-T (2 August 2001) [575]-[580].

⁶¹³ *Prosecutor v. Radislav Krstic (Trial Judgment)* IT-98-33-T (2 August 2001) [575]-[580].

⁶¹⁴ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, ICJ Judgment (3 February 2015) Dissenting opinion of Judge Antônio Augusto Cançado Trindade [421].

⁶¹⁵ Noa Krikler, ‘Killing the dead: The logic of cemetery destruction during genocidal campaigns’ (2023) 29(4) *Nations and Nationalism* <<https://doi.org/10.1111/nana.12956>> accessed 19 February 2024.

280. The 2021 policy on Cultural Heritage published by the Office of the Prosecutor of the International Criminal Court notes that crimes committed against cultural heritage constitute, first and foremost, an attack on a particular group's identity and practices."⁶¹⁶ Cultural heritage, as defined in the Rome Statute of the ICC and international law, encompasses tangible and intangible aspects of human culture, extending beyond mere 'cultural property.' The ICC Policy clarifies that the term 'cultural heritage' is construed broadly to include tangible elements like monuments, buildings, and movable objects, such as buildings, mosques, cemeteries, and churches. Intangible aspects of cultural heritage include "practices, representations, expressions, knowledge and skills that communities, groups, and, in some cases, individuals, recognize as part of their cultural heritage, together with the instruments, objects, artifacts, and cultural spaces associated therewith". This comprehensive definition reflects cultural identity and belonging, incorporating natural heritage and emphasizing the significance of cultural heritage as foundational to human identity.⁶¹⁷

Israel's deliberate destruction of Palestinian culture and identity as an evidence of genocidal intent

281. Since October 7, Israel has destroyed numerous cultural and educational sites in Gaza, causing irreparable damage to the region's heritage. According to Gaza's Tourism and Antiquities Ministry, approximately 104 mosques have been damaged or destroyed during the Israeli assault⁶¹⁸. The BBC verified 74 of these cases by December 31, including 72 mosques and 2 churches⁶¹⁹. Among the significant losses is the Omari Mosque, Gaza's oldest mosque, which has stood for over 1,400 years and was one of the largest in the region. Additionally, as a result of the attack on the Omari Mosque, an ancient collection

⁶¹⁶ <https://www.icc-cpi.int/sites/default/files/itemsDocuments/20210614-otp-policy-cultural-heritage-eng.pdf>

⁶¹⁷ 14-18, ICC Policy

⁶¹⁸ Indlieb Farazi Saber. 'A 'cultural genocide': Which of Gaza's heritage sites have been destroyed?' (AlJazeera, 14 Jan 2024): <<https://www.aljazeera.com/news/2024/1/14/a-cultural-genocide-which-of-gazas-heritage-sites-have-been-destroyed>>, accessed 28 February 2024.

⁶¹⁹ Reha Kansara and Ahmed Nour. 'Israel-Gaza war: Counting the destruction of religious sites' (BBC, 30 Jan 2024): <<https://www.bbc.com/news/world-middle-east-67983018>>, accessed 1 March 2024.

of manuscripts kept at the mosque may be forever lost⁶²⁰. Furthermore, one of the oldest churches in the world, St Porphyrius is among the bombed in the Gaza Strip⁶²¹.

282. Additionally, according to Ocha, by 12 February 2024, some 390 schools (78.8 per cent of the total school buildings in Gaza) sustained damage, including 140 schools that sustained major damage or were fully destroyed.⁶²² 162 school buildings have been directly hit since 7 October.⁶²³ Up to 280 government schools and 65 UNRWA-run schools have been destroyed or damaged, according to the Palestinian Ministry of Education. Furthermore, 12 higher education institutions in Gaza have been damaged or destroyed, completely disrupting university education.⁶²⁴

283. Moreover, Israel's attacks have also targeted cultural institutions such as libraries, museums, and archives. UNESCO, using imagery from the United Nations Satellite Centre (UNOSAT), confirmed damage to 22 buildings of historical or artistic significance, 2 depositories of movable cultural property, 3 monuments, 1 museum and 3 archeological sites⁶²⁵. Aljazeera reported that two of the four museums in Gaza, including the 13th-century Qasr Al-Basha, have been destroyed⁶²⁶. According to ICOMOS,

⁶²⁰ Indlieb Farazi Saber. 'A 'cultural genocide': Which of Gaza's heritage sites have been destroyed?' (AlJazeera, 14 Jan 2024): <<https://www.aljazeera.com/news/2024/1/14/a-cultural-genocide-which-of-gazas-heritage-sites-have-been-destroyed>>, accessed 28 February 2024.

⁶²¹ Reha Kansara and Ahmed Nour. 'Israel-Gaza war: Counting the destruction of religious sites' (BBC, 30 Jan 2024): <<https://www.bbc.com/news/world-middle-east-67983018>>, accessed 1 March 2024.

⁶²² UNOCHA 'Hostilities in the Gaza Strip and Israel | Flash Update #115' (UNOCHA 8 March 2024) <<https://www.unocha.org/publications/report/occupied-palestinian-territory/hostilities-gaza-strip-and-israel-flash-update-115>>, accessed on 17 March 2024.

⁶²³ United Nations 'Gaza: Rafah invasion would be a disaster 'beyond imagination', warn UN medics' (United Nations 8 March 2024) <[⁶²⁴ Al Jazeera 'How Israel has destroyed Gaza's schools and universities' \(Al Jazeera 24 January 2024\) <<https://www.aljazeera.com/news/2024/1/24/how-israel-has-destroyed-gazas-schools-and-universities>>, accessed on 17 March 2024.](https://palestine.un.org/en/260760-gaza-rafah-invasion-would-be-disaster-%E2%80%98beyond-imagination%E2%80%99-warn-un-medics#:~:text=Citing%20latest%20data%20on%20damage,%2FSave%20The%20Children%20report.>, accessed on 17 March 2024.</p></div><div data-bbox=)

⁶²⁵ UNESCO. 'Gaza Strip: Damage assessment' (8 March 2024): <<https://www.unesco.org/en/gaza/assessment>>, accessed on 10 March 2024.

⁶²⁶ Indlieb Farazi Saber. 'A 'cultural genocide': Which of Gaza's heritage sites have been destroyed?' (AlJazeera, 14 Jan 2024): <<https://www.aljazeera.com/news/2024/1/14/a-cultural-genocide-which-of-gazas-heritage-sites-have-been-destroyed>>, accessed 28 February 2024.

an NGO dedicated to the conservation of historic sites and monuments worldwide, over 200 of Gaza's listed heritage sites have been partially or completely destroyed⁶²⁷.

284. Among the losses is the Central Archives of Gaza City and Gaza City Hall, which housed 150 years of historical records⁶²⁸. Additionally, numerous libraries in Gaza have been destroyed, damaged, or looted since October 7⁶²⁹.

285. Moreover, the deliberate and extensive targeting of Palestinian cemeteries by Israel constitutes a fundamental aspect of its policy since the commencement of its war on Gaza in October 2023. According to a CNN investigation spanning the war's onset until January 20, 2024, the Israeli military has desecrated or demolished at least 16 cemeteries during its ground offensive in Gaza, leaving gravestones ruined, soil upturned, and, in some cases, bodies unearthed. Israeli bulldozers repurposed several cemeteries into strategic grounds and operational zones, flattening extensive areas and constructing barriers for defense.⁶³⁰ More than 2,000 graves across the Gaza Strip have been damaged or destroyed.⁶³¹

⁶²⁷International Council on Monuments and Sites. 'Statement of the Arab Regional Group at the International Council of Monuments and Sites (ICOMOS) on Palestine and the Current War in Gaza'. (ICOMOS, 9 Jan 2024): <[chrome-extension://efaidnbmnnnibpcajpcgleclefindmkaj/https://www.icomos.org/images/DOCUMENTS/Secretariat/2024/Articles_Gaza/Statement_of_the_Arab_Regional_Group_EN.pdf](https://www.icomos.org/images/DOCUMENTS/Secretariat/2024/Articles_Gaza/Statement_of_the_Arab_Regional_Group_EN.pdf)>, accessed 28 February 2024.

⁶²⁸ Mohammed Majed. "Israel destroyed Central Archives of Gaza City": Head of Gaza municipality'. (Anadolu, 29 Nov 2023): <<https://www.aa.com.tr/en/middle-east/-israel-destroyed-central-archives-of-gaza-city-head-of-gaza-municipality/3068555>>, accessed 27 February 2024; and Nadda Osman. 'Israel-Palestine war: Israeli forces destroy central archive of Gaza city'. (Middle East Eye, 7 December 2023): <<https://www.middleeasteye.net/news/israel-palestine-war-israeli-forces-destroy-central-archive-gaza-city>>, accessed on 27 February 2024.

⁶²⁹ Dan Sheehan. 'Israel has damaged or destroyed at least 13 libraries in Gaza.' (Literary Hub, 6 February 2024): <<https://lithub.com/israel-has-damaged-or-destroyed-at-least-13-libraries-in-gaza/>>, accessed 28 February 2024; and Mohamad El Chamaa. 'Gazans mourn loss of their libraries: Cultural beacons and communal spaces'. (The Washington Post, 30 Nov 2023): <<https://www.washingtonpost.com/world/2023/11/30/gaza-library-palestinian-culture/>>, accessed 28 February 2024.

⁶³⁰ CNN 'At least 16 cemeteries in Gaza have been desecrated by Israeli forces, satellite imagery and videos reveal'. (CNN, 20 January 2024) < <https://edition.cnn.com/2024/01/20/middleeast/israel-gaza-cemeteries-desecrated-investigation-intl-cmd/index.html> >, accessed 17 March 2024

⁶³¹ Al Jazeera 'No rest for Gaza's dead with rushed burials, bodies desecrated'. (Al Jazeera, 30 January 2024) <<https://www.aljazeera.com/gallery/2024/1/30/no-rest-for-gazas-dead-with-rushed-burials-bodies-desecrated>>, accessed 17 March 2024

286. While the destruction of cultural property and cemeteries alone does not amount to genocide, such actions, along with the destruction of other cultural artifacts, could provide evidence of Israel's intent, as has been established. This widespread targeting of cultural property, especially when considered within the broader context of targeting everything essential for Gaza's livelihood, suggests Israel's intention to eradicate the Palestinian people. Specifically regarding cemeteries, the extensive destruction of cemeteries and even the disturbance of buried remains, amidst significant loss of life where families seek solace in burying their loved ones, Israel sends an unmistakable message to Gazan society: even the deceased will not be left in peace.
287. The systematic destruction of cemeteries, combined with the deliberate exhumation of remains, reflects Israel's broader agenda and its systematic and genocidal policy against the Palestinian people. This agenda seeks their destruction and inflicts mental harm, evident in the profound anguish inflicted upon families and society as a whole by the desecration of gravesites.⁶³² Notably, Israeli forces have shown sensitivity towards the deceased in at least two instances, both occurring in cemeteries where Palestinians are not buried.⁶³³ This comprehensive targeting of cemeteries suggests more than mere religious oppression or physical harm; it constitutes an assault on the cultural and religious identity of the Palestinian community and their very survival as a collective group.

5.5 Environmental Destruction (Ecocide) as Genocidal Intent

288. Ecocide, while not directly codified in the text of the Rome Statute or the Genocide Convention, should be diligently considered while reading into the genocidal intent of Israeli leaders in the current attacks on Gaza. While Article 6(c) of the Rome Statute refers to the deliberate infliction of life conditions calculated at the destruction of the protected group as a genocidal practice, it could be clearly inferred that the mere practice of ecocide

⁶³² Janina Dill 'No peace for the dead: legal questions about Israel's destruction of cemeteries in Gaza'. (*EJIL: TALK!*, 31 January 2024) <<https://www.ejiltalk.org/no-peace-for-the-dead-legal-questions-about-israels-destruction-of-cemeteries-in-gaza/>>, accessed 17 March 2024

⁶³³ CNN 'At least..'. See footnote 628.

indicates the existence of an intent of genocide, especially when the long term impacts are considered, together with the totality of other culpable acts discussed in this submission.

5.5.1 Overview

289. After three months of conflict, the environmental devastation inflicted upon Gaza has reached a catastrophic level, altering the landscape visibly from space, changing the colour and texture of Gaza.⁶³⁴ The environmental impact is profound, with 22% of Gaza's agricultural land transformed into dust,⁶³⁵ wastewater systems collapsed due to power deprivation, and over 45,000 missiles and bombs causing extensive pollution and impacting reproductive health.⁶³⁶ Currently, reports suggest that Israeli forces are flooding Gaza's underground tunnels with seawater,⁶³⁷ despite warnings from environmental experts that this action 'risks ruining basic life in Gaza' by 'causing an ecological catastrophe that will leave Gaza with no drinkable water and devastate what little agriculture is possible'.⁶³⁸ The severe, widespread and long-term environmental damage resulting from the aforementioned 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. Therefore, such acts clearly constitute intentional 'ecocide'. The

⁶³⁴ 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.

⁶³⁵ Guillaume Maurice, 'In Gaza 'an estimated 22% of agricultural land' has been destroyed since the start of the conflict' *France 24* (12 December 2023) <<https://observers.france24.com/en/middle-east/20231212-in-gaza-an-estimated-22-of-agricultural-land-has-been-destroyed-since-the-start-of-the-conflict>> accessed 19 February 2024.

⁶³⁶ Middle East Monitor, 'Israel dropped 65,000 tonnes of bombs on Gaza in 89 days' (*Middle East Monitor*, 4 January 2024) <www.middleeastmonitor.com/20240104-israel-dropped-65000-tonnes-of-bombs-on-gaza-in-89-days/> accessed 19 February 2024.

⁶³⁷ Emanuel Fabian, 'IDF confirms flooding Hamas tunnels with seawater' (*Times of Israel*, 30 January 2024) <www.timesofisrael.com/IDF-confirms-flooding-hamas-tunnels-in-gaza-with-seawater/> accessed 2 February 2024.

⁶³⁸ Damien Gayle and Nina Lakhani, 'Flooding Hamas tunnels with seawater risks "ruining basic life in Gaza" says expert' (*The Guardian*, 23 December 2023) <<https://amp.theguardian.com/world/2023/dec/23/israel-flooding-hamas-tunnels-seawater-risks-ruining-basic-life-gaza-expert>> accessed 2 February 2024.

definition of ecocide and its relation to genocide is elaborated on in the subsequent section.

5.5.2 Definition of Ecocide

290. This environmentally damaging approach can be understood as ‘*ecocide*’. Ecocide, a term gaining recognition in legal discussions, is proposed as a domestic and international crime involving ‘unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts’.⁶³⁹

291. The term ecocide first emerged in light of the highly destructive chemical warfare waged by the United States during the Vietnam War, including the use of the herbicide and chemical defoliant Agent Orange. But it also has its origins in the context of discussions on reforming the Genocide Convention. Discussions of ecocide first arose in the United Nations during discussions about an extension of the genocide convention. This was in the context of ‘concern in the United Nations that the Convention on Genocide was deficient and that there were other destructive phenomena that needed to be criminalised’.⁶⁴⁰ As Higgins et al. argue: ‘The institutional history of ecocide is inextricably bound up with that of its more famous relation: genocide’.⁶⁴¹ Ecocide as a form of genocide was considered for inclusion in an extended genocide convention by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, although this idea was dropped then.⁶⁴²

⁶³⁹ Stop Ecocide International, ‘Legal definition of ecocide’ (*Stop Ecocide International*) <<https://www.stopecocide.earth/legal-definition>> accessed 2nd February 2024.

⁶⁴⁰ Polly Higgins, Damien Short and Nigel South, ‘Protecting the Planet: A Proposal for a Law of Ecocide’ (2013) 59 *Crime, Law and Social Change* 251, 259.

⁶⁴¹ Polly Higgins, Damien Short and Nigel South, ‘Protecting the Planet: A Proposal for a Law of Ecocide’ (2013) 59 *Crime, Law and Social Change* 251, 258.

⁶⁴² Anja Gauger and others, ‘The Ecocide Project: Ecocide is the missing 5th Crime Against Peace’ (*Human Rights Consortium*, 2013) <https://sas-space.sas.ac.uk/4830/1/Ecocide_research_report_19_July_13.pdf> accessed 19 February 2024.

292. Today, the link between ecocide and genocide has been theorised by multiple scholars in an emerging field of study of the ‘genocide-ecocide nexus’ and ‘ecologically-induced genocide’. The link between the phenomena of ecocide and genocide is explained by scholars in the field.
293. *Paradigmatic of any understanding of the nexus between ecocide and genocide... is when the former imposes conditions of life that menace the cultural and/or biological integrity of a social collective, particularly when this involves ecologically destructive practises or processes, that forcibly control their interaction with, eject them from, displace them or prejudice or preclude the enjoyment of their land and the local ecosystems. If it can be empirically observed that this leads to domicide and ‘social death’, it should be understood and recognised as ecologically induced genocide.*⁶⁴³

5.5.3 Bombardment and munitions strikes: ecological and health impacts

294. The intense attack of Gaza, including 25,000 tons of bombs in the initial month, is undoubtedly causing significant ecological consequences.⁶⁴⁴ Toxic heavy metal pollution arises from the use of bombs, ammunition, white phosphorus shells and the use of heavy metals as combustion enhancers. Heavy metals cause direct harm to human health, including by bioaccumulating in the human body. Moreover, they persist in the environment, rendering local food sources toxic, and therefore contribute to the scarcity of food and to starvation.
295. Of particular note in the context of genocidal intent is the impact on perinatal health of bombardment and artillery strikes and associated heavy metal pollution. Historically, Israeli assaults on Gaza have caused both direct heavy metal contamination of human bodies in the immediate vicinity of attacks, as well as indirect human contamination

⁶⁴³ Martin Crook and Damien Short, ‘Marx, Lemkin and the genocide-ecocide nexus’ (2014) 18(3) *International Journal of Human Rights* 298.

⁶⁴⁴ Jennifer Leaning, ‘Environment and health: 5. Impact of War’ (2000) 163(9) *Canadian Medical Association Journal* 1157 <www.cmaj.ca/content/163/9/1157.short> accessed 19 February 2024.

through major heavy metal contamination in the environment.⁶⁴⁵ Whether direct or indirect, the effect of contamination has been an increase in premature births, birth defects and perinatal deaths.⁶⁴⁶ Given the intensity and widespread nature of the bombardment of Gaza since October 2023, the associated direct and indirect heavy metal contamination of future pregnant women and foetuses will be omnipresent, meaning that the future prospects for perinatal health there are catastrophic.

Agricultural destruction

296. Furthermore, the deliberate destruction of Gaza's arable land—considering that 25%⁶⁴⁷ of Gaza is suitable for agriculture—impacts food security and resilience. This destruction, witnessed in previous assaults, has continued in the current offensive, with the Israeli Forces systematically bulldozing orchards, fields, and greenhouses. This deliberate policy of destruction of agricultural lands was documented in 2002 by B'tselem,⁶⁴⁸ and in 2008-2009 it was reported that one third of Gaza's agricultural land was damaged by the Israeli forces.⁶⁴⁹ In the 2010 assaults, Human Rights Watch reported

⁶⁴⁵Nabil al Baraguoni and others, 'It Takes Time to Unravel the Ecology of War in Gaza, Palestine: Long-Term Changes in Maternal, Newborn and Toddlers' Heavy Metal Loads, and Infant and Toddler Developmental Milestones in the Aftermath of the 2014 Military Attacks' (2020) 17(18) *International Journal of Environmental Research and Public Health* <<https://doi.org/10.3390/ijerph17186698>> accessed 19 February 2024.

⁶⁴⁶Paola Manduca, Nabil Al Baraquuni and Stefano Parodi, 'Long Term Risks to Neonatal Health from Exposure to War—9 Years Long Survey of Reproductive Health and Contamination by Weapon-Delivered Heavy Metals in Gaza, Palestine'(2020) 17(7) *International Journal of Environmental Research and Public Health* <<https://doi.org/10.3390/ijerph17072538>> accessed 19 February 2024.

⁶⁴⁷ Guillaume Maurice, 'In Gaza, 'an estimated 22% of agricultural land' has been destroyed since the start of the conflict' *France 24 The Observers* (12 December 2023) <<https://observers.france24.com/en/middle-east/20231212-in-gaza-an-estimated-22-of-agricultural-land-has-been-destroyed-since-the-start-of-the-conflict>> accessed 19 February 2024.

⁶⁴⁸ B'Tselem, 'Israel's Policy of House Demolitions and Destructions of Agricultural Land in Gaza' (*B'Tselem*, February 2002) <www.btselem.org/sites/default/files/sites/default/files2/publication/200202_policy_of_destruction_eng.pdf> accessed 19 February 2024.

⁶⁴⁹ Erika Weinthal and Jeannie Sowers, 'Targeting infrastructure and livelihoods in the West Bank and Gaza' (2019) 95(2) *International Affairs* 319 <<https://doi.org/10.1093/ia/iiz015>> accessed 19 February 2024.

that several factories, farms, and greenhouses in Gaza were flattened one by one with bulldozers and tanks in what amounted to “a plan of systematic destruction.”⁶⁵⁰

297. Human Rights Watch (HRW) has also documented the use of white phosphorus by Israel in the current assault on Gaza.⁶⁵¹ White phosphorus—internationally prohibited for use in densely populated areas because it burns through human skin to the bone—also has far-reaching environmental consequences. It can actively penetrate the soil for several years, causing destruction to plants and ecosystems. As has been extensively studied in the case of South Lebanon, this can cause fires that burn down agricultural land and forests.⁶⁵² Israel’s deliberate policy of agricultural destruction has continued in the current war. An analysis of satellite images by Human Rights Watch has revealed that Israeli ground forces have “systematically” bulldozed Palestinian orchards, fields, and greenhouses, creating a wasteland of sand and dirt.⁶⁵³ It is important to note that in the context of Israel’s blockade on Gaza, such destruction is to a large extent irreversible as Palestinians are unable to access construction materials needed to rebuild agricultural infrastructure. Such actions destroy both Palestinian livelihoods and the recognizable environmental landmarks and features that make a landscape familiar. Depriving the

⁶⁵⁰ Human Rights Watch, “‘I Lost Everything’ Israel’s Unlawful Destruction of Property during Operation Cast Lead” (*Human Rights Watch*, 13 May 2010)

<www.hrw.org/report/2010/05/13/i-lost-everything/israels-unlawful-destruction-property-during-operation-cast-lead> accessed 19 February 2024.

⁶⁵¹ Human Rights Watch, ‘Israel: White Phosphorus Used in Gaza, Lebanon’ (*Human Rights Watch*, 12 October 2023) <www.hrw.org/news/2023/10/12/israel-white-phosphorus-used-gaza-lebanon> accessed 19 February 2024.

⁶⁵² Antoine Kallab and Leila Rossa Mouawad, ‘The Socio-Environmental Impact of White Phosphorous Ammunition in South Lebanon: Analysis and Risk Mitigation Strategies’ (*American University of Beirut, Nature Conservation Center*, November 2023)

<<https://aub.edu.lb/natureconservation/Documents/Brief%20WP%20English.pdf>> accessed 19 February 2024.

⁶⁵³ Human Rights Watch, ‘NEW: Satellite imagery reviewed by HRW shows that orchards, greenhouses and farmland in northern Gaza have been razed...’ (Twitter, 4 December 2023)

<https://twitter.com/hrw/status/1731689458695655770?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1731689458695655770%7Ctwgr%5E625c33a56698adc80907cc30focf45d194ec8bb7%7Ctwcon%5E51_%2F%2Ftoday.lorientlejour.com%2Farticle%2F1359638%2Fisraeli-army-razed-agricultural-land-during-truce-hrw-reports.html> accessed 19 February 2024.

land of its familiarity makes return more painful, further eradicating the motivation for Palestinians to return following displacement, and increases chances of starvation and lack of food.

298. A similar pattern of Israeli activity can be observed in the West Bank, where there is widespread and consistent settler-state destruction of Palestinian agricultural crops through acts of sabotage, ranging from arson to cutting down trees and releasing raw sewage on Palestinian farmland.⁶⁵⁴ While these acts are often carried out by settlers, they occur with ‘full backing by the Israeli authorities’ through deliberate impunity,⁶⁵⁵ as well as through the Civil Administration’s prevention of the replanting of failed crops, including those destroyed by settler violence.⁶⁵⁶

5.5.4 Infrastructure destruction as ecocide

299. Successive assaults on Gaza have repeatedly inflicted major harm on Gaza’s infrastructure to the extent that one study found that the damage to Gaza’s infrastructure during successive Israeli bombing campaigns since 2007 was highly indicative of ‘systematic targeting’.⁶⁵⁷ The targeting of infrastructure, in particular water, wastewater

⁶⁵⁴ Danya Jaber, ‘Settler Colonialism and Ecocide: case study of Al-Khader, Palestine’ (2019) 9(1) *Settler Colonial Studies* 144; B’Tselem, ‘Settlers destroy 2,000+ Palestinian-owned trees and vines, backed by Israeli authorities’ (*B’Tselem*, 5 August 2018)

<https://www.btselem.org/settler_violence/20180802_settlers_destroy_2000_palestinian_owned_trees> accessed 19 February 2024; Middle East Eye, ‘Israeli settlers destroy 5,000 Palestinian trees in 5 months’ *Middle East Eye* (8 May 2023) <www.middleeasteye.net/news/israel-settlers-destroy-palestinian-trees-five-months> accessed 19 February 2024.

⁶⁵⁵ B’Tselem, ‘Settlers destroy 2,000+ Palestinian-owned trees and vines, backed by Israeli authorities’ (*B’Tselem*, 5 August 2018)

<https://www.btselem.org/settler_violence/20180802_settlers_destroy_2000_palestinian_owned_trees> accessed 19 February 2024

⁶⁵⁶ Hagar Shezaf, ‘Israeli army blocks 200 activists from planting trees with Palestinians in the West Bank’ (*Haaretz*, 14 February 2020) <www.haaretz.com/israel-news/2020-02-14/ty-article/.premium/israeli-army-blocks-200-activists-from-planting-trees-with-palestinians-in-west-bank/000017f-dbca-db5a-a57f-dbeaaabf0000> accessed 19 February 2024; Danya Jaber, ‘Settler Colonialism and Ecocide: case study of Al-Khader, Palestine’ (2019) 9(1) *Settler Colonial Studies* 144.

⁶⁵⁷ Erika Weinthal and Jeannie Sowers, ‘Targeting infrastructure and livelihoods in the West Bank and Gaza’ (2019) 95(2) *International Affairs* 319, 340 <<https://doi.org/10.1093/ia/iiz015>> accessed 19 February 2024.

and energy infrastructure in the case of Gaza, has significant consequences for the health of the environment and impacts all aspects of life, including sanitation and clean water. Scholars note that targeting of infrastructure has ‘persisted and intensified, helping to create a humanitarian crisis in Gaza’ and that Palestinian places have been made ‘increasingly less habitable and Palestinian civilian life increasingly precarious’.⁶⁵⁸

300. In the current war, Israel’s policy of depriving the population of electricity has compounded the historic and continued destruction of infrastructure through bombardment. The resulting shutdown of Gaza’s sewage system will not only spread disease,⁶⁵⁹ but also seriously endanger the long-term environmental health of the territory, which will become highly polluted by the toxic effects of large amounts of untreated sewage on the soil⁶⁶⁰ and groundwater.⁶⁶¹ The pollution of seawater (130,000 cubic metres of wastewater is being discharged into the sea daily)⁶⁶² will also impact the health of Gaza’s coastal marine ecosystems, jeopardising what little food security Palestinians enjoy in the form of their fishing industry.

301. The impact is that the environment in Gaza is increasingly becoming uninhabitable. This policy is exacerbated by the restrictions on materials into Gaza necessary for reconstruction through the blockade and mirrors Israeli policy in the West Bank, where

⁶⁵⁸ Erika Weinthal and Jeannie Sowers, ‘Targeting infrastructure and livelihoods in the West Bank and Gaza’ (2019) 95(2) *International Affairs* 319, 340 <<https://doi.org/10.1093/ia/iiz015>> accessed 19 February 2024.

⁶⁵⁹ A. Kayum Ahmed, ‘Israeli authorities cutting off water leading to public health crisis in Gaza’ (*Human Rights Watch*, 16 November 2023) <www.hrw.org/news/2023/11/16/israeli-authorities-cutting-water-leading-public-health-crisis-gaza#:~:text=According%20to%20the%20UN%20however,to%20the%20Palestinian%20Water%20Authority> accessed 19 February 2024.

⁶⁶⁰ Stephanie L. Wear and others, ‘Sewage pollution, declining ecosystem health, and cross-sector collaboration’ (2021) *Biological Conservation* 255 <<https://doi.org/10.1016/j.biocon.2021.109010>> accessed 19 February 2024.

⁶⁶¹ United Nations, ‘Water quality and wastewater’ (*United Nations*) <www.unwater.org/water-facts/water-quality-and-wastewater> accessed 19 February 2024.

⁶⁶² Bushra Khalidi and Awssan Kamal, ‘The unfolding water catastrophe in Gaza’ (*Oxfam*, 10 November 2023) <<https://views-voices.oxfam.org.uk/2023/11/water-catastrophe-gaza/>> accessed 19 February 2024.

Palestinian infrastructure building is systematically prevented.⁶⁶³ The current, as well as the previous, Israeli military operations and bombing campaigns in Gaza have systematically inflicted long-term and widespread environmental damage, clearly constituting an act of ecocide. This ecocidal policy has continued with far greater intensity during the current unprecedented assault on Gaza, leading to terrifying and ever-worsening implications for the health of Gaza's ecology and the viability of long-term, healthy human existence there.

302. We submit 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.

5.6 Domicide as Genocidal Intent

303. The term "*domicide*" is used to refer to the 'deliberate destruction of home'.⁶⁶⁴ 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'.⁶⁶⁵ In the current assault on Gaza, it has been

⁶⁶³ B'Tselem, 'Planning Policy in the West Bank' (*B'Tselem*, 11 November 2017) <www.btselem.org/planning_and_building> accessed 19 February 2024.

⁶⁶⁴ J. Douglas Porteous and Sandra E. Smith, 'Domicide: The Global Destruction of Home' (McGill-Queen's University Press 2001) 3.

⁶⁶⁵ Colin Samson and Carlos Gigoux, *Indigenous Peoples and Colonialism* (Polity Press 2016) 75.

documented that 132,590 residential structures,⁶⁶⁶ or about 360,000 housing units,⁶⁶⁷ have been destroyed in Gaza, amounting to more than 60% of the housing stock in Gaza.⁶⁶⁸ The allegation of domicide was made in the early stages of the assault by the United Nations Special Rapporteur on the right to adequate housing.⁶⁶⁹ The allegation was repeated by the Special Rapporteur at the end of January; he argued that ‘this crushing of Gaza as a place erases the past, present and future of many Palestinians’.⁶⁷⁰

304. The destruction of infrastructure during Israeli assaults, now and in the past, have been overwhelming and have significantly contributed to making human habitation less viable in Gaza. In 2014, there was “severe damage” to Gaza’s infrastructure, according to the United Nations Environment Program,⁶⁷¹ including the destruction of 60% of

⁶⁶⁶ At time of writing the report is not yet publicly available but its contents are reported in the following article: Tani Goldstein and TOI Staff, ‘World Bank report finds 45% of residential buildings in Gaza ruined beyond repair’ *The Times of Israel* (Jerusalem, 14 January 2024) <www.timesofisrael.com/world-bank-report-finds-45-of-residential-buildings-in-gaza-ruined-beyond-repair/#:~:text=According%20to%20data%20collected%20by,terror%20group%20and%20free%20hostages> accessed 20 February 2024.

⁶⁶⁷ International Court of Justice, ‘Summary of the Order of 26 January 2024 in the Application of the Convention on the Prevention and Punishment of the Crime of Genocide in Gaza (South Africa v Israel)’ (The Hague, 2024) <www.icj-cij.org/sites/default/files/case-related/192/192-20240126-sum-01-00-en.pdf> accessed 20 February 2024.

⁶⁶⁸ At time of writing the report is not yet publicly available but its contents are reported in the following article: Tani Goldstein and TOI Staff, ‘World Bank report finds 45% of residential buildings in Gaza ruined beyond repair’ *The Times of Israel* (Jerusalem, 14 January 2024) <www.timesofisrael.com/world-bank-report-finds-45-of-residential-buildings-in-gaza-ruined-beyond-repair/#:~:text=According%20to%20data%20collected%20by,terror%20group%20and%20free%20hostages> accessed 20 February 2024.

⁶⁶⁹ OHCHR, ‘Gaza: destroying civilian housing and infrastructure is an international crime, warns UN expert’ (*United Nations Office of the High Commissioner for Human Rights*, 8 November 2023) <www.ohchr.org/en/press-releases/2023/11/gaza-destroying-civilian-housing-and-infrastructure-international-crime> accessed 20 February 2024.

⁶⁷⁰ Balakrishnan Rajagopal, ‘Domicide: The mass destruction of homes should be a crime against humanity’ *The New York Times* (New York, 29 January 2024) <www.nytimes.com/interactive/2024/01/29/opinion/destruction-of-homes-crime-domicide.html> accessed 19 February 2024.

⁶⁷¹ United Nations Environment Programme, ‘State of the Environment and Outlook Report for the occupied Palestinian territory’ (UNEP, 2020) <www.un.org/unispal/document/state-of-environment-and-outlook-report-for-the-opt-2020-un-environmental-program>

wastewater treatment facilities. Similarly, air and artillery strikes hit wastewater infrastructure in 2021,⁶⁷² leading to the release of sewage into the sea and streets of Gaza, as well as flash flooding.⁶⁷³ The trend of targeting basic infrastructure is also visible in the West Bank, where Israel's civil administration systematically denies Palestinians planning permission for essential infrastructure in Area C and east Jerusalem, and implements demolitions of homes and basic infrastructure built without permission or in defiance of other discriminatory rules.⁶⁷⁴ Since 2009, Israeli authorities have demolished more than 10,000 Palestinian structures, displacing over 15,000 people.⁶⁷⁵ As scholars have noted, 'targeting infrastructure... has made Palestinian places increasingly less habitable and Palestinian life increasingly precarious'.⁶⁷⁶ The charge of domicide was levelled at Israel by United Nations experts in February 2023 in relation to the West Bank when they stated that "the systematic demolition of Palestinian homes, erection of illegal Israeli settlements and systematic denial of building permits for Palestinians in the

[report/#:~:text=UNEP%20found%20substantial%20evidence%20of,solid%20waste%20and%20unregulated%20industries](#)> accessed 20 February 2024.

⁶⁷²Airwars and Conflict and Environment Observatory, 'Reverberating civilian and environmental harm from explosive weapons use in Gaza' (*Conflict and Environment Observatory*, November 2022) <https://ceobs.org/reverberating-civilian-and-environmental-harm-from-explosive-weapons-use-in-gaza/?utm_source=rss&utm_medium=rss&utm_campaign=reverberating-civilian-and-environmental-harm-from-explosive-weapons-use-in-gaza> accessed 20 February 2024.

⁶⁷³Mohamed Buheji and Khawla Al-Muhannadi, 'Mitigating Risks of Environmental Impacts on Gaza - Review of Precautions & Solutions Post (2023 War)' (2023) 14(7) *International Journal of Advanced Research in Engineering and Technology* 15 <www.researchgate.net/profile/Mohamed-Buheji/publication/376001466_Mitigating_Risks_of_Environmental_Impacts_on_Gaza_-_Review_of_Precautions_Solutions_post_2023_War/links/656712d83fa26f66f43832c3/Mitigating-Risks-of-Environmental-Impacts-on-Gaza-Review-of-Precautions-Solutions-post-2023-War.pdf> accessed 20 February 2024.

⁶⁷⁴ B'Tselem, 'Planning Policy in the West Bank' (*B'Tselem*, 11 November 2017) <www.btselem.org/planning_and_building> accessed 19 February 2024.

⁶⁷⁵ OCHA, 'Data on demolition and displacement in the West Bank' (*OHCA*, n.d) <www.ochaopt.org/data/demolition> accessed 19 February 2024;

OHCHR, 'Israel's housing policies in occupied Palestinian territory amount to racial segregation - UN experts' (*OHCHR*, 27 April 2022) <www.ohchr.org/en/press-releases/2022/04/israels-housing-policies-occupied-palestinian-territory-amount-racial> accessed 19 February 2024.

⁶⁷⁶ Erika Weinthal and Jeannie Sowers, 'Targeting infrastructure and livelihoods in the West Bank and Gaza' (2019) 95(2) *International Affairs* 319, 340 <<https://doi.org/10.1093/ia/iiz015>> accessed 19 February 2024.

occupied West Bank amounts to ‘domicide’⁶⁷⁷. The pursuit of domicidal warfare by the Israeli army in Gaza, therefore, is part of a wider, systematic policy of eradicating the Palestinian home.

305. It is also important to note the potential for overwhelming and unprecedented damage to the entirety of Gaza’s infrastructure as a result of reports that Israel is flooding Gaza’s underground tunnels with seawater.⁶⁷⁸ This move will not only cause ecological destruction as section 5.6 described, it will also, according to experts, ‘pose risks for the integrity of the ground on which the communities of Gaza, the world’s most densely populated territory, are built’, likely causing the collapse of a significant number of buildings.⁶⁷⁹ This policy therefore represents a widening of the already widespread domicide of Gaza.

306. Israel's intense bombardment of Gaza, as analyzed by CNN within less than three months of the war's onset, included the dropping of hundreds of 2,000-pound bombs, resulting in a level of destruction that has ‘not seen since Vietnam’. Satellite imagery from the early stages of the war revealed over 500 impact craters exceeding 12 meters (40 feet) in diameter, consistent with the aftermath of 2,000-pound bomb explosions. These bombs, four times heavier than the largest ones dropped by the United States on ISIS targets in Mosul, Iraq, have inflicted severe damage on Gaza's densely populated areas. The use of such heavy bombs in such densely populated areas "means it will take decades

⁶⁷⁷OHCHR, ‘United Nations experts say Israel should be held accountable for acts of domicide’ (*United Nations OHCHR*, 13 February 2023) <www.ohchr.org/en/press-releases/2023/02/un-experts-say-israel-should-be-held-accountable-acts-domicide> accessed 2 February 2024.

⁶⁷⁸ Emanuel Fabian, ‘IDF confirms flooding Hamas tunnels with seawater’ *Times of Israel* (Jerusalem, 30 January 2024) <www.timesofisrael.com/IDF-confirms-flooding-hamas-tunnels-in-gaza-with-seawater/> accessed 2 February 2024.

⁶⁷⁹ Damien Gayle and Nina Lakhani, ‘Flooding Hamas tunnels with seawater risks “ruining basic life in Gaza” says expert’, *The Guardian* (London, 23 December 2023) <<https://amp.theguardian.com/world/2023/dec/23/israel-flooding-hamas-tunnels-seawater-risks-ruining-basic-life-gaza-expert>> accessed 2 February 2024.

for communities to recover."⁶⁸⁰ In the longer run, disruption of food production, infrastructure damage, and suspension of medical services such as routine vaccinations can lead to peacetime deaths attributable to the war.⁶⁸¹ The destruction has not only displaced 1.9 million people from their homes but has also rendered it impossible for many to return.⁶⁸² Their mere existence in the area has been annihilated.

307. To conclude, these non-exhaustive enumerated acts of domicide give a reasonable ground to conclude that there is a clear intent of causing permanent or 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). Taken in totality with the rest of actions highlighted in this submission, these acts of domicide further indicate the existence of genocidal intent.

5.7 Israeli Laws aimed at Protecting its Leaders and Soldiers from Prosecution

308. To further establish the requisite intent for proving the crime of genocide, Israel's preemptive parliamentary actions concerning the accountability of leaders, security force members, and soldiers for the consequences of their actions, shall be examined. 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

⁶⁸⁰CNN, "Not seen since Vietnam": Israel dropped hundreds of 2,000-pound bombs on Gaza, analysis shows' (CNN, 22 December 2023) <<https://edition.cnn.com/gaza-israel-big-bombs/index.html>> accessed 15 March 2024.

⁶⁸¹The Guardian, "The Guardian view on Gaza's devastation: the suffering won't end when war does' (*The Guardian*, 1 February 2024) <<https://www.theguardian.com/commentisfree/2024/feb/01/the-guardian-view-on-gazas-devastation-the-suffering-wont-end-when-war-does#:~:text=An%20estimated%2050%20to%2062,higher%20proportion%20of%20its%20homes.>> accessed 15 March 2024.

⁶⁸²The Guardian, "How war destroyed Gaza's neighbourhoods – visual investigation' (*The Guardian*, 30 January 2024) < <https://www.theguardian.com/world/ng-interactive/2024/jan/30/how-war-destroyed-gazas-neighbourhoods-visual-investigation>> accessed 15 March 2024.

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. The following presents some of the main draft bills:

5.7.1 Bill on Immunity of IDF Soldiers in Operational Events, 2023 (P/25/2351)

309. This law, which was suggested by Member of Knesset (MK) Eli Dallal, a member from the ruling Likud party, aims to establish that Israeli soldiers will have immunity from criminal liability for actions they performed as part of fulfilling their duties, during operational activity or activity against an act of terrorism, as per the drafts terminology. The law later states what immunity from liminal liability means, stating that notwithstanding what is stated in any law, an Israeli soldier will not bear criminal responsibility, will not be investigated as a suspect and will be immune from any legal action related to the action he carried out or to the order he gave in the performance of his duties during an operational activity and as part of it or for the purpose of delaying or preventing the commission of an act of terrorism, all or part of it. The immunity of an Israeli soldier will continue even after the end of his employment, service or volunteering, as the case may be.⁶⁸³

5.7.2 Bill on the immunity of the security forces in operational events, 2023 (P/25/1784)⁶⁸⁴

310. This bill was suggested by MK Tzvika Fogel from Otzma Yehudit party, led by Itamar Ben Gvir, The Minister of National Security. The purpose of this bill was to establish that members of the security forces will have immunity due to actions they performed in their duties, during operational activity or activity against an act of terrorism. The draft bill states that notwithstanding what is stated in any law, a member of the security forces shall

⁶⁸³ Bill on the Immunity of IDF Soldiers in Operational Events, 2023, ID: F/2351/25
<<https://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawBill.aspx?t=lawsuggestionssearch&lawite mid=2198636>> accessed 20 February 2024.

⁶⁸⁴ Bill on the Immunity of IDF Soldiers in Operational Events, 2023, ID: F/1784/25
<<https://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawBill.aspx?t=lawsuggestionssearch&lawite mid=2199310>> accessed 20 February 2024.

not be held criminally liable, shall not be investigated as a suspect and shall be immune from any legal action due to an action he performed or an order he gave in the course of fulfilling his duties during an operational activity and as part of it or for the purpose of delaying or preventing the commission of an act of terrorism, all or part of it. The immunity of a member of the security forces will continue even after the end of his employment, service or volunteering, as the case may be.

311. Similar or even identical draft bills were placed on the table of the twentieth Knesset by its members Shuli Moalem and Robert Ilatov from the Jewish Home party, formerly led by former Prime Minister of Israel Naftali Bennet (P/20/5178)⁶⁸⁵; and on the table of the twenty-fifth Knesset by its member Mai Golan from the Likud party, led by Benjamin Netanyahu, the Prime minister of Israel (P/25/196)⁶⁸⁶ and Hanoch Dov Malbitsky, also from the Likud party (P/25/718)⁶⁸⁷. Furthermore, during the twenty-fourth Knesset, similar drafts were placed by Itamar Ben Gvir and a group of other Knesset members (P/24/2963)⁶⁸⁸ and during the twenty fifth Knesset by its member Sharan Miriam Hashakal from the National Unity Party, a party made up of former Israeli Army Chief of

⁶⁸⁵ Bill on the Immunity of IDF Soldiers in Operational Events, 2023, ID: F/5178/20
<<https://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawBill.aspx?t=lawsuggestionssearch&lawitemid=2024919>> accessed 20 February 2024.

⁶⁸⁶ Bill on the Immunity of IDF Soldiers in Operational Events, 2023, ID: F/196/25
<<https://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawBill.aspx?t=lawsuggestionssearch&lawitemid=2196953>> accessed 20 February 2024.

⁶⁸⁷ Bill on the Immunity of IDF Soldiers in Operational Events, 2023, ID: F/718/25
<https://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawBill.aspx?t=lawsuggestionssearch&lawitemid=2197949>> accessed 20 February 2024.

⁶⁸⁸ Bill on the Immunity of IDF Soldiers in Operational Events, 2023, ID: F/2963/24
<https://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawBill.aspx?t=lawsuggestionssearch&lawitemid=2162587>> accessed 20 February 2024.

Staff Benny Gantz, now member of the War Cabinet, (P/25/193)⁶⁸⁹ and also by Nissim Vatori, from Likud party (P/25/1265).⁶⁹⁰

312. Dr. Amir Fox, a senior researcher in the “programme for the protection of democratic values and institutions” and Dr. Eran Shamir Burer, director of the Center for National Security and Democracy in Israel responded to the drafts⁶⁹¹: “We wish to strongly oppose the bill. The proposals seek to grant security authorities, as well as soldiers a “licence” to violate the law and harm Israeli citizens and other human beings. It contradicts the rule of law in its most basic sense, and goes against the basic rationality of criminal law. For example, if the bill is adopted, it will prevent the investigation and prosecution of police officers who used violence against civilians and caused them bodily harm, or of commanders who were negligent and caused the death of soldiers in training.”
313. Furthermore, the proposed legislation runs counter to Israel's international obligations, potentially subjecting members of the security forces to accountability on both criminal and civil bases in foreign and international courts if accused of violating laws of war. Such legislation would contribute to a rise in criminal activities perpetrated by security forces, consequently leading to heightened harm inflicted upon civilians and others.
314. Dr. Fox and Dr. Shamir Burer further added: “A serious violation of the rule of law and the principle of equality before the law - the bill fully exonerates any criminal offence or civil wrongdoing by members of the security forces during operational activity. Although the explanatory notes focus on combat and counter-terrorism activities, it must

⁶⁸⁹ Bill on the Immunity of IDF Soldiers in Operational Events, 2023, ID: F/193/25 <https://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawBill.aspx?t=lawsuggestionssearch&lawitemid=2196851>> accessed 20 February 2024.

⁶⁹⁰ Bill on the Immunity of IDF Soldiers in Operational Events, 2023, ID: F/1265/25 <https://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawBill.aspx?t=lawsuggestionssearch&lawitemid=2198216>> accessed 20 February 2024.

⁶⁹¹ Dr Eran Shamir Burer and Dr Amir Fox, ‘ חוק החסינות יעמיד את כוחות הביטחון מעל לחוק ויחשוף אותם לסיכונים משפטיים ’ בהו"ל (The immunity law will place the security forces above the law and expose them to legal risks abroad) (Israel Democracy Institute, 10 March 2023) <www.idi.org.il/knesset-committees/48219> accessed 20 February 2024.

be emphasised that the proposal is worded so that any action by a member of the security forces during any operational activity will enjoy immunity. Thus, for example, immunity from investigation and prosecution will apply in the following cases:

- ⌘ Police violence of any kind and in any context; such as the use of prohibited means of warfare for the purpose of dispersing demonstrations by Israeli citizens throughout Israel or by Palestinian residents in the Judea and Samaria region...whatever the consequences;
- ⌘ Negligence in the training of a commander or soldier, including if it caused the injury or death of another soldier or an Israeli citizen or a Palestinian resident;
- ⌘ Injury to a member of the Knesset or to a citizen visiting the Knesset building as a result of a bullet being fired from the weapon of a Knesset guard in the performance of his duties;
- ⌘ A Shin Bet investigator who exceeded his authority in the investigation of an Israeli or Palestinian suspect and caused him physical harm;
- ⌘ A soldier shot to death on his own accord and contrary to the law and the rules of opening fire at a Palestinian terrorist who had already been neutralised and was not considered a danger."⁶⁹²

315. They conclude, stating that: "The proposed legislation is also contrary to the obligations of the State of Israel at the international level, and will expose the members of the security forces to criminal and civil legal risks before foreign legal courts in the event that allegations of violation of the laws of war are brought against them. The bill

⁶⁹² Dr Eran Shamir Burer and Dr Amir Fox, 'חוק החסינות יעמיד את כוחות הביטחון מעל לחוק ויחשוף אותם לסיכונים משפטיים' בהו"ל (The immunity law will place the security forces above the law and expose them to legal risks abroad)' (*Israel Democracy Institute*, 10 March 2023) <www.idi.org.il/knesset-committees/48219> accessed 20 February 2024.

ostensibly aims to provide backup to the members of the security forces, and in practice endangers them.”⁶⁹³

316. Moreover, Adalah, the Legal Center for Arab Minority rights in Israel, issued a position paper on "The guiding principles and coalition agreements of the 37th Israeli government"⁶⁹⁴ clearly stating that Israel is "[a]pplying lethal measures and providing immunity from liability". The basic guidelines of the government read: "The government will work to strengthen the security forces and provide support to the fighters and the police to fight terrorism and defeat it." The implicit assumption in this statement is that today the policemen and soldiers are not given the aforementioned backing, and this despite the fact that nowadays almost no policemen or soldiers are prosecuted for attacking or killing Palestinians.

317. As part of the agreements, it was determined that an immunity arrangement would be enacted for soldiers and policemen for their actions during operational activity or in "action against an act of terrorism", so that there is no need to open a criminal investigation and an operational investigation can be sufficient. The very announcement of the intention to make legislative changes - despite the stipulations included in the agreement, according to which the new law will supposedly be established "in accordance with the rules of international law" - is a green light for the members of the security forces to continue using lethal force without any restraint and control when it comes to Palestinians. The planned legislation will allow Israel to continue to exempt itself from its responsibility as a state to investigate, prevent and take responsibility for violations by its armed forces, and will grant maximum immunity from investigation and prosecution”.⁶⁹⁵

318. These bills would further allow the Minister of National Security to re-examine the fire-opening instructions and make changes to them if he deems it appropriate. This will

⁶⁹³ Dr Eran Shamir Burer and Dr Amir Fox, ‘ חוק החסינות יעמיד את כוחות הביטחון מעל לחוק ויחשוף אותם לסיכונים משפטיים ’ בהו"ל (The immunity law will place the security forces above the law and expose them to legal risks abroad) (*Israel Democracy Institute*, 10 March 2023) <www.idi.org.il/knesset-committees/48219> accessed 20 February 2024.

⁶⁹⁴ https://www.adalah.org/uploads/uploads/37_govt_position_paper_HEB_100123.pdf

⁶⁹⁵ https://www.adalah.org/uploads/uploads/Guiding_principles_government.pdf

inevitably lead to an increase in the number of Palestinian victims as a result of the planned relaxations in the instructions to open fire, which are already extremely problematic today. Minister of National Security Ben Gvir has made it clear more than once that this demand of his comes to remove from soldiers and policemen the fear of shooting, and to ensure that every incident in which they are attacked "ends with a dead terrorist."⁶⁹⁶ It was also agreed that a "southern law"⁶⁹⁷ that permits the use of deadly force in the event of a break-in to private property, will be expanded, so that opening fire is permitted in cases of theft from army bases, and its application in cases of car theft will also be considered.

319. The totality of these measures should be seen as an attempt to subvert through primary legislation and secondary legislation an array of executions of Palestinians without trial. The consistent push for such legislation implies an acknowledgement, or anticipation, of a potential involvement in serious crimes due to persistent violations of international law.

5.7.3. Obstructing Accountability: Israel's Persistent Culture of Impunity

320. These recent legislative efforts don't aim to foster impunity for Israeli officials but rather serve to further entrench such impunity. The prevailing culture of impunity within Israel concerning its actions against Palestinians remains unchecked, perpetuating a state of immunity from accountability. The attempts to bolster this immunity underscores

⁶⁹⁶ Moshe Nussbaum, 'Ben Gvir אמר ללוחמי מג"ב לירות במחבלים גם אם לא מהווים סכנה - וחזר בו: "ציטוט לא מדויק" (Ben Gvir told the MGB fighters to shoot terrorists even if they do not pose a danger - and repeated it)' (*N12*, 18 January 2024) <www.mako.co.il/news-military/2024_q1/Article-1398532203d1d81026.htm> accessed 20 February 2024; Meir Turgeman, 'Ben Gvir עם "הוראות פתיחה באש" משלו: "רואים מחבל? תירו - גם אם הוא לא מסכן אתכם" (Ben Gvir with his own "open fire instructions": "See a terrorist? Shoot" even if he doesn't endanger you)' (*ynet*, 18 January 2024) <www.ynet.co.il/news/article/bkxx1alft> accessed 20 February 2024.

⁶⁹⁷ Moran Azoulai and Kobi Nachsoni, 'Progress in the negotiations between the Likud and Otzma Yehudit: these are the summaries between the parties' (*ynet*, 16 November 2022) <www.ynet.co.il/news/article/h1d9f5gls> accessed 20 February 2024; Penal Law proposal (amendment - protection of residence, property, business, fenced farm and vehicle), 2022, ID: F/3475/24 <<https://main.knesset.gov.il/activity/legislation/laws/pages/lawbill.aspx?t=lawsuggestionssearch&lawitemid=2159477>> accessed 20 February 2024.

Israel's steadfast intent to perpetrate violations against the Palestinian populace, including acts that could be construed as genocide, without facing consequences.

321. In a correspondence addressed to the UN Human Rights Council by more than 550 organizations, the council was implored not only to condemn but also to address the root causes of the ongoing situation.⁶⁹⁸ Highlighting the imperative to end Israel's prevailing culture of impunity, the letter cited Michael Lynk, the former UN Special Rapporteur for the situation of human rights in the Palestinian territory occupied since 1967, and Balakrishnan Rajagopal, the former UN Special Rapporteur on Adequate Housing, among others, who stressed the necessity for international intervention to hold Israel accountable.⁶⁹⁹ In a recent joint statement, Francesca Albanese, the Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967, alongside other UN experts, cautioned against Israel's policy of impunity.⁷⁰⁰

322. Former UN High Commissioner for Human Rights Michelle Bachelet emphasized the need for investigations into the actions of Israeli security forces following the killing of Al Jazeera correspondent Shireen Abu Akleh, urging accountability and an end to impunity.⁷⁰¹ However, nearly two years on, such investigations and accountability measures have yet to materialize.

⁶⁹⁸ Al-Haq 'Over 550 Organisations call on UN Human Rights Council: "Condemnation is Not Enough – Root Causes Must be Addressed, Israel's Impunity Must be Brought to an End, Justice Must be Achieved" (Al-Haq 18 March 2021) <<https://www.alhaq.org/advocacy/18044.html>> accessed 19 March 2024

⁶⁹⁹ OHCHR 'UN experts condemn Israel's demolition of the Palestinian village of Humsa" (OHCHR 2 March 2021) <<https://www.ohchr.org/en/statements/2021/03/un-experts-condemn-israels-demolition-palestinian-village-humsa?LangID=E&NewsID=26826>> accessed 19 March 2024

⁷⁰⁰ OHCHR 'Israel's alleged undercover killings in occupied West Bank hospital may amount to extrajudicial killings and war crimes: UN experts" (OHCHR 9 February 2024) <<https://www.ohchr.org/en/press-releases/2024/02/israels-alleged-undercover-killings-occupied-west-bank-hospital-may-amount>> accessed 19 March 2024

⁷⁰¹ UN, 'Israel: UN rights chief calls for end to 'culture of impunity'" (UN news 14 May 2022) <<https://www.ohchr.org/en/press-releases/2024/02/israels-alleged-undercover-killings-occupied-west-bank-hospital-may-amount>> accessed 19 March 2024

323. According to data compiled by Israeli human rights organization Yesh Din spanning from 2017 to 2021, the likelihood of a complaint leading to an indictment against a soldier for harming a Palestinian is less than 1%, with only 4.4% of cases resulting in indictments.⁷⁰² A 2016 report from B'Tselem similarly cast doubt on the efficacy of the Israeli military's law enforcement system, which predominantly targets lower-ranking officers while shielding higher-ranking officials from scrutiny.⁷⁰³ A map of nearly 500 Israeli court cases, as disclosed by Ceasefire Centre for Civilian Rights, reveals a pattern wherein the Israeli justice system effectively shields Israeli Security Forces (ISF) from accountability for harm inflicted upon civilians in the OPT.⁷⁰⁴ Between 2001 and 2006, approximately 600 complaints concerning the use of torture and ill-treatment by Israel's General Security Services (GSS) have been lodged with the Israeli Attorney General. However, none of these complaints have led to criminal investigations.⁷⁰⁵

324. A report by Human Rights Watch has determined that the investigative practices and procedures of the Israeli military lack impartiality, thoroughness, and timeliness. Instances of wrongdoing are seldom met with judicial consequences, and existing

⁷⁰² YESH DIN, 'Law Enforcement against Israeli Soldiers Suspected of Harming Palestinians and their Property' (YESH DIN December 2022) <<https://s3.eu-west-1.amazonaws.com/files.yesh-din.org/LAW+ENFORCEMENT+AGAINST+ISRAELI+SOLDIERS+2017-2021/YeshDin++Data+12.22+-+English.pdf>> accessed 19 March 2024

⁷⁰³ B'Tselem, 'The Occupation's Fig Leaf: Israel's Military Law Enforcement System as a Whitewash Mechanism'" (B'Tselem May 2016) <https://www.btselem.org/publications/summaries/201605_occupations_fig_leaf> accessed 19 March 2024

⁷⁰⁴ Ceasefire Centre for Civilian Rights, 'Israel's justice system shields security forces from accountability – Launch of major new database'" (Ceasefire Centre for Civilian Rights 19 July 2023) <<https://www.ceasefire.org/israels-justice-system-shields-security-forces-from-accountability-launch-of-major-new-database/>> accessed 19 March 2024

⁷⁰⁵ OHCHR, 'Committee Against Torture Begins Review of Report of Israel'" (OHCHR 5 May 2009) <<https://www.ohchr.org/en/press-releases/2009/10/committee-against-torture-begins-review-report>> accessed 19 March 2024

practices offer minimal deterrence.⁷⁰⁶ This system not only shields Israeli officials but also protects perpetrators of settler violence. Human Rights Watch has highlighted the complicity of extremist settlers enabled by Israel's culture of impunity for settler violence, facilitated by unlawful military policies.⁷⁰⁷ Palestinian children bear the brunt of these circumstances, with B'Tselem warning of the inevitability of further casualties due to this impunity.⁷⁰⁸

325. A study published by Adalah identifies the core issue in a military justice system that evades rigorous and impartial inquiries by relying on debriefings of soldiers, termed 'operational investigations', which often fail to seek truth by disregarding testimonies from victims or non-military witnesses and overlooking discrepancies with available evidence. Even when military investigations into civilian casualties occur, they are initiated belatedly, after evidence at the scene has vanished, rendering them ineffective.⁷⁰⁹

326. The Israeli Supreme Court further reinforces the culture of impunity. Despite petitions by Israeli human rights organizations against policies risking Palestinian civilian casualties, the Supreme Court has refrained from intervening.⁷¹⁰ Additionally, while acknowledging the occupied status of the West Bank and Gaza, the court has refused to apply the full spectrum of international law pertaining to occupation, thereby avoiding scrutiny of the legality of Israeli settlements.⁷¹¹ In a report by Amnesty International, it

⁷⁰⁶ Human Rights Watch, 'Promoting Impunity: The Israeli Military's Failure to Investigate Wrongdoing'" (Human Rights Watch June 2005) <<https://www.hrw.org/reports/2005/iopto605/iopto605text.pdf>> accessed 19 March 2024

⁷⁰⁷ Human Rights Watch, 'How Israeli impunity threatens Palestinian children'" (Human Rights Watch 26 August 2015) <<https://www.hrw.org/news/2015/08/26/how-israeli-impunity-threatens-palestinian-children>> accessed 19 March 2024

⁷⁰⁸ B'Tselem, 'B'Tselem: A burned infant was only a matter of time in view of policy to not enforce law on violent settlers'" (B'Tselem 31 July 2015) <https://www.btselem.org/press_release/20150731_killing_of_baby_in_duma> accessed 19 March 2024

⁷⁰⁹ Hala Khoury-Bisharat, 'Israel and the Culture of Impunity'" (Adalah June 2007) <<https://www.adalah.org/uploads/oldfiles/newsletter/eng/juno7/ar1.pdf>> accessed 19 March 2024

⁷¹⁰ H.C. 3261/06, Physicians for Human Rights et al. v. The Minister of Defense.

⁷¹¹ Hala Khoury-Bisharat, 'Israel and the Culture of Impunity'" . See footnote 709.

has observed that Israel's judiciary routinely upholds laws, policies, and practices that perpetuate and enforce the apartheid system against Palestinians.⁷¹²

327. Notably, despite an International Court of Justice binding order on 26 January 2024, requiring Israel to prevent and punish incitement to genocide, no actions have been taken against Israeli officials inciting genocide against Palestinians.⁷¹³

328. Amidst the prevailing culture of impunity and the inherent limitations in enforcing International Humanitarian Law (IHL), the ratification of the Rome Statute of the International Criminal Court (ICC) in 1998 sparked optimism for a sturdy mechanism to enforce fundamental norms of international law. Yet, Israel consistently obstructs Palestine's pursuit of justice through the ICC, demonstrating its steadfast dedication to perpetuating crimes, including genocide, without consequence. Israel persistently undermines Palestine's efforts to engage the International Criminal Court for investigations,⁷¹⁴ and even launches attacks against the institution itself.⁷¹⁵

⁷¹² Amnesty International 'Defending the rule of law, enforcing apartheid – the double life of Israel's judiciary'" (Amnesty International 13 September 2023) <<https://www.amnesty.org/en/latest/news/2023/09/defending-the-rule-of-law-enforcing-apartheid-the-double-life-of-israels-judiciary/>> accessed 19 March 2024

⁷¹³ Human Rights Watch 'Israel Not Complying with World Court Order in Genocide Case'" (Human Rights Watch 26 February 2024) <[https://www.hrw.org/news/2024/02/26/israel-not-complying-world-court-order-genocide-case#:~:text=\(The%20Hague%2C%20February%2026%2C,Human%20Rights%20Watch%20said%20today](https://www.hrw.org/news/2024/02/26/israel-not-complying-world-court-order-genocide-case#:~:text=(The%20Hague%2C%20February%2026%2C,Human%20Rights%20Watch%20said%20today)> accessed 19 March 2024

⁷¹⁴ Amnesty International 'Israel and Occupied Palestinian Territories: Retaliation against Palestine's welcome accession to ICC must stop'" (Refworld 7 January 2015)

<<https://www.refworld.org/policy/statements/amnesty/2015/en/103338/>> accessed 19 March 2024;

Haaretz 'Israel Demands PA Drop War Crimes Suit at The Hague'" (Haaretz 27 September 2009)

<<https://www.haaretz.com/2009-09-27/ty-article/israel-demands-pa-drop-war-crimes-suit-at-the-hague/0000017f-f55b-d5bd-a17f-f77bd7770000>> accessed 19 March 2024;

⁷¹⁵ France 24 'Netanyahu vows to fight 'anti-Semitic' ICC ruling '" (France 6 February 2021)

<<https://www.france24.com/en/live-news/20210206-netanyahu-vows-to-fight-anti-semitic-icc-ruling>> accessed 19 March 2024

5.8 Apartheid as evidence on Genocidal Intent

329. 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.

330. The initiation of proceedings by South Africa against Israel under Article IX of the 1948 Genocide Convention is noteworthy in this context. South Africa would not have been able to do the same in context of the International Convention on the Suppression and Punishment of the Crime of Apartheid ('1973 Apartheid Convention'), particularly given the absence of both states as parties to Apartheid Convention.

331. In the current Genocide Convention-based case, despite the legal constraints, South Africa's application extensively references Israel's apartheid policies, creating an implicit connection to apartheid, arguably akin to a phantom application,⁷¹⁶ considering the structural similarities between the definition of genocide in Article II of the 1948 Genocide Convention and the definition of the crime of apartheid in Article II of the 1973 Apartheid Convention. South Africa's application incorporates numerous mentions of the crime of apartheid, forming the broader context of Israel's treatment of the Palestinian people.

332. The South African application to the ICJ extensively addressed the concept of apartheid, commencing with its contextual introduction in paragraph 4. Subsequently, in paragraph 13, the application made specific mention of South Africa's prior referral to the ICC ⁷¹⁷ on November 17, 2023. This referral, shared with four other ICC states parties –

⁷¹⁶ Victor Kattan and Gerhard Kemp, 'Apartheid as a form of genocide: reflections on South Africa v Israel' (*EJIL: Talk!*, 25 January 2024) <www.ejiltalk.org/apartheid-as-a-form-of-genocide-reflections-on-south-africa-v-israel/> accessed 20 February 2024.

⁷¹⁷ Letter from Vusi Madonsela (Ambassador of the Republic of South Africa to the Kingdom of the Netherlands) to Prosecutor Karim AA Khan KC of the International Criminal Court (17 November 2023)

Bangladesh, Bolivia, the Comoros, and Djibouti – explicitly highlighted the crime of apartheid. Moreover, the application characterised the institutionalised system of discriminatory laws, policies, and practices as an 'apartheid regime' in paragraph 35, supported by a detailed reference in a lengthy footnote (note 140).

333. Vitaly, the Application asserts that South Africa contends these 'other violations of international law' exhibit genocidal characteristics, emphasising the presence of the requisite specific intent (*dolus specialis*) to destroy Palestinians in Gaza as part of the broader Palestinian national, racial, and ethnic group, as in paragraph 2 of the ICJ Application. It is noteworthy that Article II(b) of the 1973 Apartheid Convention identifies one of the inhuman acts constituting the crime of apartheid as the “deliberate *imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction in whole or in part.*” The classification of specific conduct as either 'genocide' or 'apartheid' hinges on the contextual nuances and purpose. Depending on the application of elements and purpose, state policy as a whole or state violence in a particular instance may be deemed both genocide and apartheid.

334. It is worthy of mention that Malcolm Shaw KC, lead counsel for Israel before the ICJ, while characterising South Africa's assertion of Israel practising apartheid for 75 years as 'outrageous' in his opening statement, has failed to directly challenge the claim or allude to the intricate relationship between the crimes of genocide and apartheid.

5.8.1 The interdependence between genocide and apartheid in the context of Rome Statute, Genocide Convention and Apartheid Convention:

335. The Preamble of the 1973 Apartheid Convention observed that "in the Convention on the Prevention and Punishment of the Crime of Genocide, certain acts which may also be qualified as acts of apartheid constitute a crime under international law." The delineation of the crime of apartheid in Article II (a), (i), (ii), and (b) of the 1973 Apartheid Convention closely mirrors the definitions in Article II (a), (b), and (c) of the 1948 Genocide

<www.icc-cpi.int/sites/default/files/2023-11/ICC-Referral-Palestine-Final-17-November-2023.pdf> accessed 20 February 2024.

Convention and Article 6 (a), (b), and (c) of the Rome Statute of the International Criminal Court.

336. In 1985, the findings of the 'Group of Three' report, appointed pursuant to Article IX of the Apartheid Convention to oversee adherence to the Convention, highlighted "the resemblance, in their racist character, between the apartheid regime and the fascist and Nazi regimes vanquished during the Second World War."⁷¹⁸ The Group underscored that:

"the crime of apartheid is a form of the crime of genocide and as such falls under the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, and recommends to the Commission on Human Rights that its resolutions reflect this interdependence, as well as the fact that adherence in the International Convention on the Suppression and Punishment of the Crime of Apartheid is an indication of the implementation of the International Convention on the Prevention and Punishment of the Crime of Genocide".⁷¹⁹

337. Moreover, the Commission on Human Rights, in resolution 1985/10⁷²⁰, expressed its conviction that the offense of apartheid constitutes a manifestation of the crime of genocide. Hence, the resolution urged all states to endorse both the 1948 Genocide Convention and the 1973 Apartheid Convention.

338. The Rome Statute of the ICC delineates a clear distinction between crimes. It defines the crime of genocide in Article 6, distinct from the definition of crimes against humanity detailed in Article 7, which encompasses the listing of the crime of apartheid in clause (j).

⁷¹⁸ Report of the Group of Three Established under the Convention. 4 Feb. 1985. E/CN.4/1985/27, para. 32 : <https://digitallibrary.un.org/record/85336?ln=en>

⁷¹⁹ Report of the Group of Three Established under the Convention. 4 Feb. 1985. E/CN.4/1985/27, para. 33 : <https://digitallibrary.un.org/record/85336?ln=en>

⁷²⁰ United Nations Commission on Human Rights, *Implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid.*, 26 February 1985, E/CN.4/RES/1985/10, available at: <https://www.refworld.org/docid/3boofob80.html> [accessed 30 January 2024]

This submission, while noting this distinction, still observes that the distinction happened due to the different stated intent as per the conventions and Rome Statute.

339. In the context of the ICC, the primary distinction between the crimes of apartheid and genocide lies in the question of intent. In the crime of apartheid, intent is characterised in Article 7(1)(j)(5) the Elements of Crimes⁷²¹ as the intention "to maintain", and the act was specifically characterised in Article 7(1)(j)(4) as "an institutionalised regime of systematic oppression and domination by one racial group over any other racial group or groups." As for genocide, the intent in the crime of genocide is defined by clause (3) of Article 6(a), (b), (c), (d) and (e) as one where the perpetrator intended "to destroy, in whole or in part, a national, ethnic, racial, or religious group, as such."

340. This is to say that the crime of apartheid is a crime specific to the context, centering on the regime or governmental structure where various crimes against humanity take place. Consequently, it is conceivable for genocide to occur within an apartheid system. After prolonged periods of systematic discrimination, dominance, and persecution, genocide may emerge as the ultimate objective. Here, the historical pattern is evident; in Germany leading up to the Final Solution (1941-1945) and in Rwanda before the genocide against the Tutsis. Remarkably, Rwanda, with a history of ethnic violence, had stringent laws aimed at preventing discrimination against any 'ethnic group, region, nation, race, or religion.' This commitment was emphasised in Rwanda's reports to the Group of Three in 1983, 1986, and 1988.

5.8.2 Contextualizing genocide in an apartheid regime

341. While the connection between genocide and apartheid has never been dealt with judicially, the South African Constitutional Court came close⁷²² when it suggested that some policy and conduct of the apartheid state, specifically the chemical and biological

⁷²¹ International Criminal Court (ICC), *Elements of Crimes*, 2011, ISBN No. 92-9227-232-2, available at: <https://www.refworld.org/docid/4ff5dd7d2.html> [accessed 30 January 2024]

⁷²² Miles Jackson, A Conspiracy to Commit Genocide: Anti-Fertility Research in Apartheid's Chemical and Biological Weapons Programme, *Journal of International Criminal Justice*, Volume 13, Issue 5, December 2015, Pages 933–950, <https://doi.org/10.1093/jicj/mqv060>

weapons programme and its anti-fertility research⁷²³, could be construed as 'conspiracy to commit genocide.

342. 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 Palestinians in Gaza 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.

343. 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," contrary to Article II, paragraph (c), of the Genocide Convention which requires the *dolus specialis*.

5.8.3 The recognition of the establishment of a regime of apartheid by Israel over the Palestinians:

344. The recognition for Israel implementing a system of apartheid over Palestinians is widely accepted. The following details the United Nations and CSO experts who have confirmed the perpetration of the Crime of Apartheid by the State of Israel throughout the different governments, continuing up until this current one:

— *The report of United Nations Special Rapporteur on Palestine (2007)*

In a 2007 report, United Nations Special Rapporteur on Palestine John Dugard asserted that aspects of the Israeli occupation constitute forms of colonialism and apartheid, contrary

⁷²³ Truth and Reconciliation Commission of South Africa, Volume II Report Presented to President Nelson Mandela on 29 October 1998. Available at: <https://www.justice.gov.za/trc/report/finalreport/volume%202.pdf>

to international law. He recommended bringing the legal implications of this prolonged occupation with features of colonialism and apartheid to the ICJ.⁷²⁴

— *The report of United Nations Special Rapporteur on Palestine (2014)*

In 2014, United Nations Special Rapporteur Richard A. Falk employed the term in his “Report of the Special Rapporteur on The Situation of Human Rights in the Palestinian Territories Occupied since 1967.”⁷²⁵

— *United Nations ESCWA Report (2017)*

In 2017, a report⁷²⁶ was issued by United Nations ESCWA clearly establishing how Israel has established a four-tier system of apartheid over the Palestinians. The report was removed in less than a day following American pressure⁷²⁷ on the United Nations Secretary General Antonio Guterres which led ESCWA Executive Director Rima Khalaf to resign.

— *Report of United Nations Special Rapporteur on Palestine (2022)*

On March 21, 2022, Michael Lynk, the United Nations Special Rapporteur for Human Rights in the Occupied Palestinian Territories, presented a report⁷²⁸ to the United Nations Human Rights Council asserting that Israel's authority over the West Bank and Gaza

⁷²⁴ A/HRC/4/17. Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, John Dugard". p. 3. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/Go7/105/44/PDF/Go710544.pdf?OpenElement>

⁷²⁵ A/HRC/25/67, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967". 13 January 2014 : https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/25/67

⁷²⁶ Richard A. Falk; Virginia Tilley (2017). Israeli Practices towards the Palestinian People and the Question of Apartheid

⁷²⁷ Nikki Haley, then the US ambassador to the UN, clearly stated this in a speech to an AIPAC convention in 2017. Video could be accessed here: <https://www.instagram.com/tom.zreika/reel/C2l8xoKJi2Y/> and here: <https://www.facebook.com/watch/?v=10154269004341561>

⁷²⁸ Report of the Special Rapporteur on the situation of Human Rights in the Palestinian territories occupied since 1967 (A/HRC/49/87) - occupied Palestinian territory". <https://reliefweb.int/report/occupied-palestinian-territory/report-special-rapporteur-situation-human-rights-20>

constitutes apartheid—a structured system of systematic racial oppression and discrimination.

— *Special Committee on Israeli practices (2022)*

The Special Committee's report on Israeli practices affecting Palestinian human rights, published on July 15, 2022, asserts that Israel's 55-year occupation of Palestine serves to protect the interests of a Jewish State, subjugating Palestinians. The report notes that many stakeholders consider this practice tantamount to apartheid.⁷²⁹

— *Report of United Nations Special Rapporteur on Palestine (2022)*

On October 18, 2022, the United Nations Special Rapporteur on the Occupied Palestinian Territories Dr. Francesca Albanese proposed in a report⁷³⁰ that United Nations member states formulate "a plan to end the Israeli settler-colonial occupation and apartheid regime." The report concludes that the violations outlined reveal the intentional, acquisitive, segregationist, and repressive nature of the Israeli occupation, designed to impede the realisation of the Palestinian people's right to self-determination.

345. International and Israeli human rights groups have endorsed this categorization of Israel's conduct as apartheid. This includes a legal study of the South African Human Sciences Research Council (2009)⁷³¹, Yesh Din report (2020)⁷³², B'Tselem report

⁷²⁹ "End-of-Mission Statement of the UN Special Committee to Investigate Israeli Practices":

<https://www.ohchr.org/en/statements/2022/07/end-mission-statement-un-special-committee-investigate-israeli-practices>

⁷³⁰ Francesca Albanese. Situation of human rights in the Palestinian territories occupied since 1967 (Report). United Nations: https://www.un.org/unispal/wp-content/uploads/2022/10/A.77.356_210922.pdf

⁷³¹ du Plessis, Max; El-Ajou, Fatmeh; Kattan, Victor; Reynolds, John; Rosenberg, Rina; Scobbie, Iain; Tilley, Virginia (May 2009).

⁷³² Yesh Din, 9 Jul. 2020, The Occupation of the West Bank and the Crime of Apartheid: Legal Opinion Archived 10 February 2022. <https://www.yesh-din.org/en/the-occupation-of-the-west-bank-and-the-crime-of-apartheid-legal-opinion/>

(2021)⁷³³, FIDH statement (2021)⁷³⁴, Human Rights Watch report (2021)⁷³⁵, Amnesty International report (2022)⁷³⁶, The International Human Rights Clinic at Harvard Law School,⁷³⁷ International Commission of Jurists statement (2022)⁷³⁸, and DAWN ICC submission (2022)⁷³⁹.

346. To conclude, this submission emphasises that while the intent is clearly different in apartheid and genocide, the practices are overlapping. Furthermore, the historical pattern in Nazi Germany and Rwanda before its genocide clearly indicates that apartheid and systematic racial domination may pave the way for genocide.

5.9 Conclusion

347. The mens rea section of this submission focuses on all aspects of intent of the crime of Genocide, namely: (1) the direct statements of genocidal intent documented by Law for

⁷³³ This is apartheid: The Israeli regime promotes and perpetuates Jewish supremacy between the Mediterranean Sea and the Jordan River". B'Tselem. 12 January 2021.

https://www.btselem.org/press_releases/20210112_this_is_apartheid

⁷³⁴ "The international community must hold Israel responsible for its crimes of apartheid". International Federation for Human Rights. Archived from the original on 26 April 2022.

<https://www.fidh.org/en/region/north-africa-middle-east/israel-palestine/the-international-community-must-hold-israel-responsible-for-its>

⁷³⁵ Holmes, Oliver (27 April 2021). "Israel is committing the crime of apartheid, rights watchdog says". *The Guardian*. <https://www.theguardian.com/world/2021/apr/27/israel-committing-crime-apartheid-human-rights-watch>; Human Rights Watch 'A Threshold Crossed' See footnote 70.

⁷³⁶ Israel's Apartheid Against Palestinians: Cruel System of Domination and Crime Against Humanity (PDF) (Report). Amnesty International. January 2022. <https://www.amnesty.org/en/wp-content/uploads/2022/02/MDE1551412022ENGLISH.pdf>

⁷³⁷ The International Human Rights Clinic at Harvard Law School and Addameer Prisoner Support and Human Rights Association 'Apartheid in the Occupied West Bank: A Legal Analysis of Israel's Actions'. 28 February 2022. <https://hrp.law.harvard.edu/wp-content/uploads/2022/03/IHRC-Addameer-Submission-to-HRC-COI-Apartheid-in-WB.pdf>

⁷³⁸ "UN: ICJ denounces Israel's system of apartheid against Palestinians". *International Commission of Jurists*. 25 March 2022. <https://www.icj.org/un-icj-denounces-israels-system-of-apartheid-against-palestinians/>

⁷³⁹ "In Rare Move, NGO Asks ICC to Probe Israeli Military Prosecutor for Alleged War Crimes". *Haaretz* 15 November 2022. <https://www.haaretz.com/israel-news/2022-10-31/ty-article/.premium/in-rare-move-ngo-asks-icc-to-probe-israeli-military-prosecutor-for-alleged-war-crimes/00000184-2993-dcb6-abaf-e9f329870000>

Palestine, (2) the well-documented Israeli policies of ethnic cleansing in light of the Prosecutor ial practices of previous international criminal tribunals, (3) the “de-civilianization” of Palestinian civilians in Gaza through the systematically and inaccurately employed human shields claim by Israel, (4) the destruction of Palestinian culture, heritage, and education system, (5) ecocidal policies and practices, (6) domicidal policies and practices, (7) the Israeli laws enacted to protect its leaders from prosecution, and (8) the apartheid framework that creates and environment conducive to committing the crime of genocide. The notion of "totality of culpable acts", clearly referred to within this section, is key to understanding the elements of this mens rea section.

348. The different modes of liability adopted by the ICC are encompassing of all the following elements of mens rea as well as the previous practices of mens rea, as indicated in Section 6.

349. This section has demonstrated in -non exhaustive- detail that the requisite specific intent for destroying the protected group is present in the case of Israeli genocide. This intent is directly linked to members of the war cabinet and is reflected in their statements.

350. If the Court was to apply the higher threshold of "the *only* reasonable conclusion to be drawn", which it has not applied in the *Bashir* case because its initial usage was challenged and reversed by the OTP and Appeals Chamber, we submit that our mens rea submission, accompanied with Annex I of the genocidal intent database of Law for Palestine, meets that high standard of the "only reasonable conclusion to be drawn".

351. However, as the then ICC Prosecutor in his supporting document to the Appeals Chamber noted, "the Majority [of PTC judges] applied the wrong legal test to draw inferences for determining “reasonable grounds” under Article 58 of the Statute [in reference to the “only reasonable conclusion to be drawn test”]. As a result, the Majority Decision imposed on the Prosecution an evidentiary burden that is inappropriate for this

procedural stage.”⁷⁴⁰ The Prosecutor further noted that the standard of proof of "only reasonable conclusion to be drawn" amounts to the standard of proof of “beyond a reasonable doubt” which should be employed later on at the proceeding stage.

352. Therefore, proceeding from the decision of the Appeal Chamber⁷⁴¹ based on the Prosecutor’s appeal, we believe that this high standard should not be employed at this early stage. We believe that at this stage the standard of proof of "a reasonable ground" to believe that the genocidal intent exists should be employed. It is beyond doubt that "a reasonable ground" to believe that Israeli leaders have a general intent exists in this case, based on our 8-fold mens rea submission.

⁷⁴⁰ No.: ICC-02/05-01/09 OA Date: 6 July 2009. Prosecution Document in Support of Appeal against the “Decision on the Prosecution’s Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir”. para.1-3 & 23-24 https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2009_04962.PDF

⁷⁴¹ No.: ICC-02/05-01/09 Date: 12 July 2010, PRE-TRIAL CHAMBER I. *THE PROSECUTOR V. OMAR HASSAN AHMAD AL BASHIR*. Second Decision on the Prosecution's Application for a Warrant of Arrest. accessible at: https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2010_04826.PDF

& No.: ICC-02/05-01/09 Date: 12 July 2010. PRE-TRIAL CHAMBER I. *THE PROSECUTOR v. OMAR HASSAN AHMAD AL BASHIR ("OMAR AL BASHIR")*. Second Warrant of Arrest for Omar Hassan Ahmad Al Bashir. Accessible at: https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2010_04825.PDF

6. LIABILITY AND CLAIMS

6.1 Theory of Liability: The Modes of Liability for Genocide relied upon by the ICC

353. International criminal liability has followed different approaches in the previous international criminal tribunals and the jurisprudence of the ICC. The following active modes have been established by the Rome Statute as well as the case-law of the Court. These modes are applicable to the culpable acts under the jurisdiction of the Court that have been perpetrated by the Israeli leaders, against whom an arrest warrant should be issued as stipulated in this submission.

First: Direct Perpetration as per Article 25(3)(a) of the Rome Statute:

354. This involves an individual personally committing an act of genocide. In the case of *The Prosecutor v. Omar Al Bashir*, the ICC issued an arrest warrant for Al Bashir, the President of Sudan, on charges of genocide, including direct perpetration of genocide in Darfur.

355. In the *Bashir* case, the Pre Trial Chamber stated: "Furthermore, as the Chamber has held in the saidcases, article 25(3)(a) of the Statute also embraces the following four manifestations of the notion of control of the crime: direct perpetration, perpetration through another person or indirect perpetration, co-perpetration based on joint control and indirect-perpetration."⁷⁴²

Second: Ordering, Soliciting, or Inducing as per Article 25(3)(b) of the Statute:

356. This mode of liability involves cases where a person orders, solicits or induces others to commit genocide. The *Prosecutor v. Bosco Ntaganda*, Ntaganda was found guilty of

⁷⁴² Prosecutor v. Bashir, PTC I, ICC-02/05-01/09 (2009), p.80, para. 210.

ordering subordinates to commit acts of murder and persecution as part of a widespread attack against the civilian population, which constituted crimes against humanity.

Third: Accessorial Liability: Aiding and Abetting as per Article 25(3)(c) of the Statute:

357. Providing assistance or support to the commission of genocide, knowing that such support will aid the commission of the crime. The case of *The Prosecutor v. Jean-Pierre Bemba Gombo* is an example where the Court employed this, where Bemba was held responsible for aiding and abetting the commission of crimes against humanity and war crimes by his militia in the Central African Republic (CAR).

Fourth: Joint Criminal Enterprise (JCE) as per Article 25(3)(d) of the Statute:

358. While the ICC's employment of this mode is under debate, we believe that this is should be the approach the Court goes by in this case, considering the gravity of the crime of genocide as well as the massive entanglement of genocidal roles among the joints of the state. This mode involves participation in a common plan to commit genocide. In the International Criminal Tribunal for the former Yugoslavia (ICTY), such as in the case of *The Prosecutor v. Radovan Karadzic*, Karadzic was found guilty of participating in a joint criminal enterprise that committed genocide in Srebrenica in 1995. This mode of liability was critical for achieving accountability against the perpetrators.

Fifth: Command or Superior Responsibility as per Article 28 of the Statute:

359. Based on this, commanders and superiors would be held responsible for genocide committed by subordinates if they knew or should have known about the acts and failed to prevent them or punish the perpetrators. The case of *The Prosecutor v. Ratko Mladić* from the ICTY is a prominent example, where Mladić was held responsible for genocide in Srebrenica under the theory of command responsibility. In the case of ICC, the ICC Pre-Trial Chamber in the *Bemba* Confirmation of Charges Decision maintained that:

360. “[c]riminal responsibility under article 28 of the Statute shall not be examined, unless there is a determination that there is not sufficient evidence to establish substantial grounds to believe that the suspect is criminally responsible as a ‘co- perpetrator’ within

the meaning of article 25(3)(a) of the Statute for the crimes set out in the Amended DCC.”⁷⁴³

361. Here the attention of the Court is referred to the findings of the Kahan Commission Report on the Sabra and Shatila massacre. The Commission found that responsibility is to be imputed to the Minister of Defense for having disregarded the danger of acts of vengeance and bloodshed [by the Phalangists against the population of the refugee camps] and having failed to take this danger into account when he decided to have the Phalangists enter the camps. In addition, it found that responsibility is to be imputed to the Minister of Defense for not ordering appropriate measures for preventing or reducing the danger of massacre [as a condition for the Phalangists' entry into the camps.] These blunders constitute the non-fulfillment of a duty with which the Defense Minister was charged.⁷⁴⁴

Sixth: Contributing to a Group Crime as per Article 25(3)(d):

362. This involves contributing to the commission of genocide by a group, with knowledge of the group's intent. In the *Prosecutor v. Germain Katanga*, Katanga was found guilty of contributing to crimes committed by a militia group in the Democratic Republic of Congo, including crimes against humanity.

Seventh: Contributing to the crime with a common purpose as per Article 25(3)(e) of the Statute:

363. This addresses individual criminal responsibility for aiding, abetting, or otherwise assisting in the commission or attempted commission of a crime within the jurisdiction of the ICC. In the context of incitement to genocide, an individual who actively encourages or supports such actions may be considered as aiding or abetting the commission of

⁷⁴³ ICC, *Bemba*, PTC II, Decision on the Confirmation of Charges, Case No. ICC-01/05-01/08-424, 15 June 2009, para. 407

⁷⁴⁴ The Commission Of Inquiry Into The Events At The Refugee Camps In Beirut, 1983: Final Report (Authorised Translation), *reprinted in* Jerusalem Post, Feb. 9, 1983 (supplement) [hereinafter cited as KAHAN REPORT].

genocide. Under Article 25(3)(e), a person can be held criminally responsible if they intentionally contribute to the commission of a crime by providing assistance, whether directly or indirectly. Incitement to genocide, involving language or actions encouraging the destruction of a protected group, could be construed as a form of assistance that facilitates the commission of genocide.

364. In the Nahimana Appeal Judgment of the ICTR, the Court stated that “direct and public incitement to commit genocide under Article 2(3)(c) is itself a crime, and it is not necessary to demonstrate that it in fact substantially contributed to the commission of acts of genocide. In other words, the crime of direct and public incitement to commit genocide is an inchoate offence, punishable even if no act of genocide has resulted therefrom”.⁷⁴⁵

6.2 The crimes perpetrated and their perpetrators:

365. The initial perpetrators regarding whose actions we found evidence are, but not limited to, the members of the Israeli war cabinet.⁷⁴⁶

366. On October 11, 2023, the war cabinet of Israel was established. The National Unity opposition party joined the thirty-seventh government led by Prime Minister Benjamin Netanyahu. The war cabinet comprises Benjamin Netanyahu, Prime Minister; Yoav Gallant, Minister of Defense; and Benny Gantz, former Chief of the General Staff. Additionally, there are two observers, Gadi Eizenkot and Ron Dermer.⁷⁴⁷

367. Hereby, this submission concludes that Article 6 of the Rome Statute of the ICC has been breached by Israeli leaders, including those stated above, namely:

⁷⁴⁵ ICTR. Nahimana Appeal Judgment, paragraph 678 of ICTR-99-52-A.

⁷⁴⁶ This is, by no means, an exhaustive list and we call upon the Court to further investigate crimes by other actors.

⁷⁴⁷ 11 October 2023, Jewish Press, Israel Forms Limited War Cabinet, Unity Government:

<https://www.jewishpress.com/news/israel/government-israel/israels-war-cabinet-formed/2023/10/11/>

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; and
- (d) Imposing measures intended to prevent births within the group.

368. We further conclude that incitement to genocide, as understood from the text of Article 25(3)(e) of the Statute has been breached. Article 25(3) reads: In accordance with this Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person: "(e) For the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission".

369. It's crucial to also consider incitement originating from influential figures in positions of authority beyond the War Council. This encompasses other ministers, members of the Knesset, former senior officials, journalists, and social media influencers who directly incite genocide and employ dehumanizing language against Palestinians in Gaza, advocating for their killing and destruction. The database compiled by Law for Palestine of statements inciting genocide (Refer to annex 1) serves as an essential reference in this regard.

7. ICC AND GENERAL OFFICIAL RECOGNITION OF OTHER CASES OF PLAUSIBLE GENOCIDE

370. Since its inception, the ICC has identified, on several occasions, the existence of a reasonable basis for investigating cases of genocide, including ones with far lesser devastation to civilian lives and infrastructure than currently observed in Gaza. This recognition has been reiterated by official United Nations reports and several leading members of the ICC's Assembly of State Parties. Given the extensive evidence of actions and intent publicly available, the question remains as to why the Court does not investigate the plausibility of the crime of genocide being perpetrated by Israeli leaders of the War Cabinet. The following section outlines the various cases where the Court has investigated officials for the crime of genocide, with the aim to place the current situation in Gaza within this framework.

7.1 ICC recognition of other similar cases of plausible genocide

371. Darfur genocide: On June 6, 2005, based on a referral by the UNSC, the ICC opened investigation into allegations including of genocide against Sudanese leaders, particularly against former President Omar Al-Bashir. On March 4, 2009, after four years of investigating crimes allegedly committed by him, including genocide, the Pre-Trial Chamber I issued an arrest warrant against Omar Al-Bashir on the basis of war crimes and crimes against humanity, with the majority of the PTC-I finding that "the material provided by the Prosecution in support of its application for a warrant of arrest failed to provide reasonable grounds to believe that the Government of Sudan acted with specific intent to destroy, in whole or in part, the Fur, Masalit and Zaghawa groups". Consequently, the crime of genocide was not included in the warrant issued for the arrest of Omar Al-Bashir, unless further materials arrive.⁷⁴⁸ However, on February 3, 2010, the

⁷⁴⁸ ICC issues a warrant of arrest for Omar Al Bashir, President of Sudan: <https://www.icc-cpi.int/news/icc-issues-warrant-arrest-omar-al-bashir-president-sudan> , and THE PROSECUTOR v. OMAR HASSAN AHMAD AL BASHIR ("OMAR AL BASHIR"): https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2009_01514.PDF

Appeals Chamber rendered its judgement on the Prosecutor's appeal, reversing, by an unanimous decision, Pre-Trial Chamber I's decision of March 4, 2009 in respect of dismissing the charges of genocide from Bashir's arrest warrant on procedural grounds. The Appeals Chamber directed the Pre-Trial Chamber to decide anew whether or not the arrest warrant should be extended to cover the charge of genocide. The AC explained that "it was not concerned with the question of whether Mr Omar Al Bashir is, or is not, responsible for the crime of genocide". Rather, the question addressed was "of procedural law, namely whether the Pre-Trial Chamber applied the correct standard of proof when disposing of the Prosecutor's application for an arrest warrant."⁷⁴⁹ On that basis, the Pre-Trial Chamber I issued a second arrest warrant against Omar Al Bashir, this time to include the crime of genocide. The PTC-I found "reasonable grounds to believe that [Al Bashir] is responsible for three counts of genocide committed against the Fur, Masalit and Zaghawa ethnic groups," namely "genocide by killing, genocide by causing serious bodily or mental harm and genocide by deliberately inflicting on each target group conditions of life calculated to bring about the group's physical destruction."⁷⁵⁰

372. It is worthy of mention that the ICC acknowledged the plausibility of the genocide allegations and issued an arrest warrant on those basis, despite the fact that the International Commission of Inquiry on Darfur to the United Nations Secretary-General "concluded that the Government of the Sudan has not pursued a policy of genocide."⁷⁵¹ in its report in 2005.

⁷⁴⁹ Al Bashir case: The Appeals Chamber directs Pre-Trial Chamber I to decide anew on the genocide charge: <https://www.icc-cpi.int/news/al-bashir-case-appeals-chamber-directs-pre-trial-chamber-i-decide-anew-genocide-charge>

⁷⁵⁰ Pre-Trial Chamber I issues a second warrant of arrest against Omar Al Bashir for counts of genocide: <https://www.icc-cpi.int/news/pre-trial-chamber-i-issues-second-warrant-arrest-against-omar-al-bashir-counts-genocide>

⁷⁵¹ Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General, Pursuant to Security Council Resolution 1564 of 18 September 2004, Geneva, 25 January 2005. P.4 Accessible at: <https://www.legal-tools.org/doc/1480de/pdf/#:~:text=Have%20acts%20of%20genocide%20occurred,the%20militias%20under%20their%20control.>

373. Yazidi genocide: On April 8, 2015, based on communications and allegations submitted to the Court, the ICC Prosecutor announced in an official statement⁷⁵² that she will not be pursuing an investigation into those allegations on a "jurisdictional basis" as Syria and Iraq were not states parties to the Rome Statute.⁷⁵³ Nonetheless, the Prosecutor recognised the reception by her office of the allegations and communications related to the crime of genocide, emphasising that the dismissal is without prejudice to the possibility of the commission of those crimes. It is worth mentioning that on September 2015, the former ICC Prosecutor, Luis Moreno Ocampo, emphasised that what the Yazidis faced is an "ongoing genocide"⁷⁵⁴. Furthermore, the current ICC Prosecutor Karim Khan, in May 2021, during his service as the Special Adviser and Head of the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq (UNITAD), confirmed that based on UNITAD's independent criminal investigations, they have "established clear and convincing evidence that genocide was committed by ISIL against the Yazidi as a religious group,"⁷⁵⁵

374. Ukraine genocide: On 28 February 2022, the ICC Prosecutor announced his decision to seek authorization for investigation into the situation in Ukraine. On March 2, 2022, he confirmed that the OTP has received referrals from 39 ICC States Parties, confirming his intention to proceed with opening an investigation into the Situation in Ukraine

⁷⁵² Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on the alleged crimes committed by ISIS: <https://www.icc-cpi.int/news/statement-Prosecutor-international-criminal-court-fatou-bensouda-alleged-crimes-committed-isis>

⁷⁵³ 9 December 2020, SITUATION IN IRAQ/UK FINAL REPORT para. 69 ff.: <https://www.icc-cpi.int/sites/default/files/itemsDocuments/201209-otp-final-report-iraq-uk-eng.pdf>

⁷⁵⁴ Former ICC chief Prosecutor pushes for Yazidi genocide case: <https://www.reuters.com/article/idUSKCNOR21NQ/>

⁷⁵⁵ ISIL/Da'esh Committed Genocide of Yazidi, War Crimes against Unarmed Cadets, Military Personnel in Iraq, Investigative Team Head Tells Security Council: <https://press.un.org/en/2021/sc14514.doc.htm> and <https://documents.un.org/doc/undoc/gen/n21/104/70/pdf/n2110470.pdf?token=tUgsHkHaXvodyR98gE&f e=true>

including "allegations of war crimes, crimes against humanity or *genocide* committed on any part of the territory of Ukraine by any person." [emphasis added]⁷⁵⁶

7.2 Recognition of the Gaza genocide

375. Recognition of the perpetration of the crime of genocide or the plausibility of its perpetration by Israeli leaders has been addressed by several United Nations and ICC experts and State Parties.

7.2.1. ICJ and other judicial recognition

376. On January 26, 2024, the ICJ gave its provisional measures order based on the case instituted by South Africa against Israel claiming that Israel has been perpetrating the crime of genocide against the protected Palestinian group in Gaza. The ICJ ruled that there is a plausible basis to believe that Israel may have been committing the crime of genocide, and may have failed to prevent its commission, and hence issued provisional measures.⁷⁵⁷

377. On 31 January 2024, a US federal court in California, issued its verdict on a case brought by Palestinian victims against the President of the United States, the Secretary of State, and Secretary of Defense alleging their complicit in the Gaza genocide perpetrated by Israel. The US court, while dismissing the case on jurisdictional basis, concluded that "the current treatment of the Palestinians in the Gaza Strip by the Israeli Military may plausibly constitute a genocide in violation of international law". The US court further "implore[d] Defendants to examine the results of their unflagging support of the military siege against the Palestinians in Gaza".⁷⁵⁸

⁷⁵⁶ Statement of ICC Prosecutor, Karim A.A. Khan QC, on the Situation in Ukraine: Receipt of Referrals from 39 States Parties and the Opening of an Investigation: <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-qc-situation-ukraine-receipt-referrals-39-states>

⁷⁵⁷ South Africa v. Israel, provisional measures order, 26 January 2024. Accessible at: <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-00-en.pdf>

⁷⁵⁸ DCIP, et al. v. Joseph R. Biden, et al. UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA. Case No. 23-cv-05829-JSW. ORDER GRANTING MOTION TO DISMISS AND DENYING

7.2.2 United Nations Recognition

378. The assessment that Israel is committing the crime of genocide in Gaza, or at the very least, there are plausible grounds to believe that there may be such a possibility, has been echoed several times by United Nations experts, working groups and committees since October 2023. These include:

- *Statements by United Nations Special Rapporteurs and members of working groups.*

On October 19, 2023, nine United Nations Special Rapporteurs sounded “the alarm”, warning that “[t]here is an ongoing campaign by Israel resulting in crimes against humanity in Gaza. Considering statements made by Israeli political leaders and their allies, accompanied by military action in Gaza and escalation of arrests and killing in the West Bank, there is also a *risk of genocide against the Palestine People*.”⁷⁵⁹ Furthermore, on November 2, 2023, eight Special Rapporteurs warned that they “remain convinced that *the Palestinian people are at grave risk of genocide*.” The experts stated that “[t]he time for action is now”, underscoring that “Israel’s allies also bear responsibility and must act now to prevent its disastrous course of action”⁷⁶⁰. Two weeks later, on November 16, 2023,

MOTION FOR PRELIMINARY INJUNCTION. January 31, 2024. Accessible at:

https://cerjustice.org/sites/default/files/attach/2024/01/01_1-31-24_Order-granting-MTD_w.pdf

⁷⁵⁹ United Nations OHCHR, *Gaza: UN experts decry bombing of hospitals and schools as crimes against humanity, call for prevention of genocide* (19 October 2023), <https://www.ohchr.org/en/press-releases/2023/10/gaza-un-experts-decry-bombing-hospitals-and-schools-crimes-against-humanity> (**emphasis added**). The statement was made by Pedro Arrojo Agudo, Special Rapporteur on the human rights to safe drinking water and sanitation; Francesca Albanese, Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967; Reem Alsalem, Special Rapporteur on violence against women and girls; Paula Gaviria Betancur, Special Rapporteur on the human rights of internally displaced persons; Michael Fakhri, Special Rapporteur on the right to food; Tlaleng Mofokeng, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Balakrishnan Rajagopal, Special Rapporteur on the right to adequate housing; Farida Shaheed, Special Rapporteur on the right to education; Ashwini K.P., Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

⁷⁶⁰ United Nations OHCHR, *Gaza is ‘running out of time’ UN experts warn, demanding a ceasefire to prevent genocide* (2 November 2023), <https://www.ohchr.org/en/press-releases/2023/11/gaza-running-out-time-un-experts-warn-demanding-ceasefire-prevent-genocide>. The statement was made by the above Special Rapporteurs on safe drinking water; the Palestinian Territory; violence against women and girls; internally

15 United Nations Special Rapporteurs and 21 members of United Nations Working Groups cautioned that “[g]rave violations committed by Israel against Palestinians in the aftermath of October 7, particularly in Gaza, point to *a genocide in the making*”. The statement highlights “evidence of *increasing genocidal incitement, overt intent to “destroy the Palestinian people under occupation*”, loud calls for a ‘second Nakba’ in Gaza and the rest of the occupied Palestinian territory, and the use of powerful weaponry with inherently indiscriminate impacts, resulting in a colossal death toll and destruction of life-sustaining infrastructure”. The experts expressed “profound ... concern ... about ... the *failure of the international system to mobilise to prevent genocide*”, cautioning that “[t]he failure to urgently implement a ceasefire risks this situation spiralling towards a *genocide conducted with 21st century means and methods of warfare*”; they called on “[t]he international community, including not only States but also non-State actors” to “do everything it can to *immediately end the risk of genocide against the Palestinian people*”.⁷⁶¹ On November 20, 2023, the United Nations Special Rapporteur on violence

displaced persons; food; physical and mental health; and racism; as well as Irene Khan, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

⁷⁶¹ United Nations OHCHR, Gaza: UN experts call on international community to prevent genocide against the Palestinian people (16 November 2023), <https://www.ohchr.org/en/press-releases/2023/11/gaza-un-experts-call-international-community-prevent-genocide-against>. The statement was made by the above Special Rapporteurs on the Palestinian Territory; safe drinking water; education; adequate housing; racism; internally displaced persons; freedom of opinion and expression; violence against women and girls; as well as by Margaret Satterthwaite, Special Rapporteur on the Independence of Judges and Lawyers; Surya Deva, Special Rapporteur on the right to development; Olivier De Schutter, Special Rapporteur on extreme poverty and human rights; Siobhán Mullally, Special Rapporteur on trafficking in persons, especially women and children; Mary Lawlor, Special Rapporteur on the situation of human rights defenders; Ben Saul, Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and Tomoya Obokata, Special Rapporteur on contemporary forms of slavery, including its causes and consequences; as well as by Livingstone Sewanyana, Independent Expert on the promotion of a democratic and equitable international order; Claudia Mahler, Independent Expert on the enjoyment of all human rights by older persons; as well as by Barbara G. Reynolds (Chair), Bina D’Costa, Dominique Day, Catherine Namakula, Working Group of experts on people of African Descent; Dorothy Estrada Tanck (Chair), Claudia Flores, Ivana Krstić, Haina Lu, and Laura Nyirinkindi, Working Group on discrimination against women and girls; Carlos Salazar Couto (Chair-Rapporteur), Sorch MacLeod, Jovana Jezdimirovic Ranito, Chris M. A. Kwaja, Ravindran Daniel, Working Group on the use of mercenaries; Damilola Olawuyi (Chairperson), Robert McCorquodale (Vice-Chairperson), Elżbieta Karska, Fernanda Hopenhaym, and Pichamon Yeophantong, Working Group on the issue of human rights and transnational corporations and other business enterprises.

against women and girls, its causes and consequences, issued a statement warning that “[s]ince October 7, the assault on Palestinian women’s dignity and rights has taken on new and terrifying dimensions, as thousands have become victims of war crimes, crimes against humanity and an *unfolding genocide*”. The Special Rapporteur “expressed alarm at the *genocidal and dehumanising rhetoric about the Palestinian people*, including women and children, by top Israeli Government officials and public figures calling them “children of darkness””. The Special Rapporteur referred to the description of Palestinians as ‘human animals’ and the calls for a ‘second Nakba’ by Israeli officials, cautioning that “[s]uch statements make the Israeli Government’s intention to destroy the Palestinian people, in whole or in part, absolutely and consistently clear”⁷⁶². On December 8, 2023, ahead of the UNSC ceasefire resolution vote, which was vetoed by the United States of America, 22 United Nations Special Rapporteurs and 28 Members of

⁷⁶² United Nations OHCHR, *Women bearing the brunt of Israel-Gaza conflict: UN expert* (20 November 2023), <https://www.ohchr.org/en/press-releases/2023/11/women-bearing-brunt-israel-gaza-conflict-un-expert> (emphasis added). 513 United Nations OHCHR, *UN experts urge States to unite for peace and push for ceasefire in Gaza* (8 December 2023), <https://www.ohchr.org/en/press-releases/2023/12/un-experts-urge-states-unite-peace-and-push-ceasefire-gaza>. The statement was made by the above Special Rapporteurs on safe drinking water; the Palestinian Territory; violence against women and girls; internally displaced persons; development; extreme poverty; food; freedom of opinion and expression; human rights defenders; physical and mental health; trafficking in persons; contemporary forms of slavery; adequate housing; independence of judges and lawyers; countering terrorism; education; and racism; as well as David Boyd, Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; Beatriz Miranda Galarza, Special Rapporteur on the elimination of discrimination against persons affected by leprosy and their family members; Clément Nyaletsossi Voule, Special Rapporteur on the rights to freedom of peaceful assembly and of association; Francisco Cali Tzay, Special Rapporteur on the rights of indigenous peoples; and Alexandra Xanthaki, Special Rapporteur in the field of cultural rights; as well as by the above members of the working group on People of African Descent; discrimination against women and girls; the use of mercenaries; human rights and transnational corporations and other business enterprises; and Aua Baldé (Chair-Rapporteur), Gabriella Citroni (Vice-Chair), Angkhana Neelapaijit, Grażyna Baranowska, Ana Lorena Delgadillo Perez, Working Group on enforced or involuntary disappearances; as well as the above Independent Expert on the enjoyment of all human rights by older persons; Cecilia Bailliet, Independent Expert on human rights and international solidarity; Graeme Reid, Independent Expert on Protection against violence and discrimination based on sexual orientation and gender identity; and Attiya Waris, Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights.

United Nations Working Groups reiterated their previous statement “warning against the *commission of genocide*”⁷⁶³

– *Statements by the United Nations Committee on the Elimination of Racial Discrimination (UN CERD).*

On October 27, 2023, the UN CERD underscored that it was “[h]ighly concerned about the sharp increase in racist hate speech and *dehumanization* directed at Palestinians since October 7, particularly on the Internet and in social media, including by senior officials, politicians, members of the Parliament, and public figures, particularly the statement of October 9 made by the Israeli Minister of Defense, Yoav Gallant, in which he referred to Palestinians as ‘human animals’, language which could *incite genocidal actions*.”⁷⁶⁴ Furthermore, on December 21, 2023, the UN CERD, acting under its ‘early warning and

⁷⁶³ United Nations OHCHR, *UN experts urge States to unite for peace and push for ceasefire in Gaza* (8 December 2023), <https://www.ohchr.org/en/press-releases/2023/12/un-experts-urge-states-unite-peace-and-push-ceasefire-gaza>. The statement was made by the above Special Rapporteurs on safe drinking water; the Palestinian Territory; violence against women and girls; internally displaced persons; development; extreme poverty; food; freedom of opinion and expression; human rights defenders; physical and mental health; trafficking in persons; contemporary forms of slavery; adequate housing; independence of judges and lawyers; countering terrorism; education; and racism; as well as David Boyd, Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; Beatriz Miranda Galarza, Special Rapporteur on the elimination of discrimination against persons affected by leprosy and their family members; Clément Nyaletsossi Voule, Special Rapporteur on the rights to freedom of peaceful assembly and of association; Francisco Cali Tzay, Special Rapporteur on the rights of indigenous peoples; and Alexandra Xanthaki, Special Rapporteur in the field of cultural rights; as well as by the above members of the working group on People of African Descent; discrimination against women and girls; the use of mercenaries; human rights and transnational corporations and other business enterprises; and Aua Baldé (Chair-Rapporteur), Gabriella Citroni (Vice-Chair), Angkhana Neelapaijit, Grażyna Baranowska, Ana Lorena Delgado Perez, Working Group on enforced or involuntary disappearances; as well as the above Independent Expert on the enjoyment of all human rights by older persons; Cecilia Bailliet, Independent Expert on human rights and international solidarity; Graeme Reid, Independent Expert on Protection against violence and discrimination based on sexual orientation and gender identity; and Attiya Waris, Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights.

⁷⁶⁴ CERD, *Statement 5 (2023) Israel and the State of Palestine* (27 October 2023), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCERD%2FSWA%2F9904 (emphasis added).

urgent action procedure’, reiterating its earlier statement, and warning of “hate speech and dehumanising discourse targeted at Palestinians, raising severe concerns regarding Israel’s *and other State parties’ obligation to prevent ... genocide*”. The Committee called on “*all State parties to fully respect their international obligations*, in particular those arising from ... the Convention on the Prevention and Punishment of the Crime of Genocide and to cooperate *to bring an end [to] the violations* that are taking place and to prevent ... genocide”. The Committee made detailed reference to the ongoing situation in Gaza, stating *inter alia* that it was “gravely concerned about the racist hate speech, incitement to violence and genocidal actions, as well as dehumanising rhetoric targeted at Palestinians since October 7, 2023 by Israeli senior government officials, members of the Parliament, politicians and public figures”.⁷⁶⁵

— *A OHCHR Director Describes Gaza Situation as "Textbook Case of Genocide" in Final Communication to UN High Commissioner*

In a final communication addressed to the UN's High Commissioner in Geneva, Volker Turk, Craig Mokhiber, the Director of the OHCHR New York office, penned a widely reported letter on October 28, 2023, before departing from his position. In this letter, he described the situation in Gaza as a *"textbook case of genocide."*⁷⁶⁶

⁷⁶⁵ United Nations OCHA, Gaza Strip: States are obliged to prevent crimes against humanity and genocide, UN Committee stresses (21 December 2023), <https://www.ohchr.org/en/press-releases/2023/12/gaza-strip-states-are-obliged-prevent-crimes-against-humanity-and-genocide> (emphasis added). Under CERD's Early Warning and Urgent Action ('EWUA') procedure, CERD has extensive expertise in compiling indicators relevant to the prevention of genocide; in 2015 it issued a Declaration on the Prevention of Genocide which recalled this work in its preamble: see CERD, Declaration on the Prevention of Genocide (CRD/C/66/1) (17 October 2005).

⁷⁶⁶ Letter from Craig Mokhiber to Volker Türk, High Commissioner for Human Rights (28 October 2023), <https://s3.documentcloud.org/documents/24103463/craig-mokhiber-resignation-letter.pdf> (emphasis added).

- *Event held by the UN Committee on the Exercise of the Inalienable Rights of the Palestinian People (UN CEIRPP)*

On December 12, 2023, the UN CEIRPP helped an event at United Nations Headquarters in New York, livestreamed on United Nations Web TV, to highlight the "Responsibility to Prevent Genocide" in the "2023 War on Gaza". The speakers, chaired by the UN CEIRPP, made a clear reference to the genocidal practices and intent and demanded a solid intervention from the United Nations bodies and third states to uphold their responsibility under the Genocide Convention to prevent the unfolding genocide. The Rome Statute and the obligation of the ICC to investigate and prosecute the plausible commission of the crime of genocide was also invoked.⁷⁶⁷

7.2.3. ICC related recognition

379. On December 1, 2023, on a TV show, the former ICC Prosecutor Luis Moreno Ocampo stated that the "siege of Gaza... is a form of genocide."⁷⁶⁸ After describing alleged crimes committed by Palestinian armed groups, the former Prosecutor explained that "[i]t's complicated to define the war crimes, because each bombing has to be evaluated. But there is something very clear: The siege of Gaza itself... is a form of genocide." He further added that "Article 2(c) of the Genocide Convention defines that you don't need to kill people to commit genocide... the rules say inflicting conditions to destroy the group, that itself is a genocide. So creating the siege itself is a genocide, and that is very clear." Commenting further on the requisite specific intent for the crime of genocide, the former Prosecutor added, "that's why it's easy to say and there's reasonable basis to believe Israel

⁷⁶⁷ '2023 War on Gaza: The Responsibility to Prevent Genocide | UN Web TV' (United Nations) <https://webtv.un.org/en/asset/k1v/k1vpr1yczg?_gl=1%2A10ypec%2A_ga%2AMTkoODUwMTcxNi4xNzA3MDQ2MjU2%2A_ga_TK9BQL5X7Z%2AMTcwNzM5MDE1Ny41LjEuMTcwNzM5MDU4Ny4wLjAuMA> accessed 1 March 2024

⁷⁶⁸ '2023 War on Gaza: The Responsibility to Prevent Genocide | United Nations Web TV' (United Nations) <https://webtv.un.org/en/asset/k1v/k1vpr1yczg?_gl=1%2A10ypec%2A_ga%2AMTkoODUwMTcxNi4xNzA3MDQ2MjU2%2A_ga_TK9BQL5X7Z%2AMTcwNzM5MDE1Ny41LjEuMTcwNzM5MDU4Ny4wLjAuMA> accessed 1 March 2024

is committing a genocide in Gaza, just the siege. Each bombing, each of the killings, should be properly investigated but... the siege itself is already genocide."⁷⁶⁹

380. On November 17, 2023, South Africa, Bangladesh, Bolivia, Venezuela, Comoros and Djibouti, referred, *inter alia*, the question of genocide in the context of the Situation in Palestine to the ICC in accordance with Article 14 of the Rome Statute with the aim to push for immediate investigation by the ICC.⁷⁷⁰ Furthermore, besides South Africa, several State Parties to the Rome Statute and Assembly of State Parties of the ICC have expressed their concern that Israel is committing the crime of genocide in Gaza, including Bolivia,⁷⁷¹ Brazil,⁷⁷² Colombia,⁷⁷³ Venezuela,⁷⁷⁴ Bangladesh,⁷⁷⁵ Honduras,⁷⁷⁶ Jordan,⁷⁷⁷

⁷⁶⁹ 1 December 2023. Former ICC chief Prosecutor : Israel's siege of Gaza is a 'genocide':

<https://www.aljazeera.com/program/upfront/2023/12/1/former-icc-chief-prosecutor-israels-siege-of-gaza-is-a-genocide>

⁷⁷⁰ State Party Referral in Accordance with Article 14 of the Rome Statute of the International Criminal Court Regarding the Situation in Palestine (17 November 2023).

⁷⁷¹ Luis Alberto Arce Catacora (Lucho Arce), Presidente Constitucional del Estado Plurinacional de Bolivia, @LuchoXBolivia, Tweet (2:43 am, November 16, 2023), <https://twitter.com/LuchoXBolivia/status/1724981446001967283>.

⁷⁷² "President Lula says war in the Middle East is genocide", *AgenciaBrazil* (25 October 2023), <https://agenciabrasil.ebc.com.br/en/politica/noticia/2023-10/president-lula-says-war-middle-east-genocide>.

⁷⁷³ Gustavo Petro, Presidente de la República de Colombia, @petrogustavo, Tweet (4:00 am, November 1, 2023) <https://twitter.com/petrogustavo/status/1719565081371935150>.

⁷⁷⁴ Nicolás Maduro, Presidente de la República Bolivariana de Venezuela, @NicolasMaduro, Tweet (7:40 pm, November 4, 2023) <https://twitter.com/NicolasMaduro/status/1720888719568191585>.

⁷⁷⁵ UN, Meetings Coverage and Press Releases, Seventy-Eighth Session, 39th and 40th Meetings, GA/12566, *Staggering Loss of Life in Gaza, Follow-on to Temporary Truce Dominate General Assembly Debate on Decades-Long Question of Palestine*, GA/12566 (28 November 2023), <https://press.un.org/en/2023/ga12566.doc.htm>.

⁷⁷⁶ "Live updates | Israel rebuffs US push for humanitarian pause, says hostages must be released first", *Associated Press* (3 November 2023), <https://web.archive.org/web/20231117082155/https://thehill.com/homenews/ap/ap-international/ap-live-updates-israeli-troops-tighten-encirclement-of-gaza-city-as-top-us-diplomat-arrives-in-israel/>.

⁷⁷⁷ "Jordan's foreign minister says Israel aiming 'to empty Gaza of its people'", *AlJazeera* (10 December 2023), <https://www.aljazeera.com/news/2023/12/10/jordan-foreign-minister-says-israel-aiming-to-empty-gaza-of-its-people>.

Namibia,⁷⁷⁸ Tunisia,⁷⁷⁹ Palestine,⁷⁸⁰ and Nicaragua, which filed a case at the International Court of Justice against Germany for financial and military support it provides to the Israeli genocide in Gaza.⁷⁸¹

7.3. Conclusion

381. As identified in this section, 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. Other sections of this document have outlined, in detail, the various aspects of the situation in Gaza and their legal characterization pertaining to the crime of genocide. 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 United Nations 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.

⁷⁷⁸ DW “Namibia: Germany 'unable to draw lessons from history'”, (DW 24 January 2024) <<https://www.dw.com/en/namibia-germany-unable-to-draw-lessons-from-its-horrific-history/a-68065159>> Accessed 18 March 2024

⁷⁷⁹ WAFA “Tunisia holds international community responsible for ongoing Israeli aggression and war of genocide waged against Palestinians”, (WAFA 24 February 2024) <<https://english.wafa.ps/Pages/Details/141894>> Accessed 18 March 2024

⁷⁸⁰ “President Abbas urges Biden to stop Israel’s ongoing genocide of Palestinians”, *WAFA* (18 November 2023), <https://english.wafa.ps/Pages/Details/139394>.

⁷⁸¹ International Court of Justice. “The Republic of Nicaragua institutes proceedings against the Federal Republic of Germany and requests the Court to indicate provisional measures”, (ICJ, 1 March 2024), <<https://www.icj-cij.org/sites/default/files/case-related/193/193-20240301-pre-01-00-en.pdf>> Accessed 18 March 2024

8. PROSECUTORIAL DISCRETION

382. This section scrutinizes case selection and prioritization within a specific situation and in relation to comparative situations.

383. The ICC OTP must prioritize investigations into the situation in Gaza since October 7, 2023, and the prosecution of associated perpetrators, over its other active cases. Further, even within an investigation into the Situation in Palestine, the OTP must prioritize cases against Israeli officials for crimes committed in Gaza since October 7, 2023 that amount to crimes under Article 6 of the Rome Statute over other crimes that fall within the Court's jurisdiction.⁷⁸²

8.1 Case Prioritization within a Situation by the Prosecutor

384. The OTP enjoys significant discretionary power over the selection and prioritization of situations and cases that potentially fall under its jurisdiction.⁷⁸³ In its 2016 Policy Paper on Case Selection and Prioritization (the Policy), the OTP reaffirmed its discretionary powers and presented the standards governing its practice.⁷⁸⁴ The Policy clarified that cases will be prioritized based on the OTP's capacity to handle "workload".⁷⁸⁵ Due to its limited ability to prosecute all cases at once, the OTP will therefore decide upon "the appropriate number of cases to be pursued within any given situation, whether to proceed with further cases, or whether to end its involvement in a situation."⁷⁸⁶

⁷⁸² Rome Statute of the International Criminal Court 1998, Article 6.

⁷⁸³ Rome Statute of the International Criminal Court 1998, Article 15, 54.

⁷⁸⁴ The Office of the Prosecutor, 'Policy Paper on Case Selection and Prioritisation' (15 September 2016) <https://www.icc-cpi.int/sites/default/files/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf> Accessed 20 March 2024

⁷⁸⁵ The Office of the Prosecutor, 'Policy Paper on Case Selection and Prioritisation' (15 September 2016), para 12 <https://www.icc-cpi.int/sites/default/files/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf> Accessed 20 March 2024

⁷⁸⁶ The Office of the Prosecutor, 'Policy Paper on Case Selection and Prioritisation' (15 September 2016), para 13 <https://www.icc-cpi.int/sites/default/files/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf> Accessed 20 March 2024

385. The 2016 Policy Paper has synthesized the three criteria based on which cases are selected and prioritized.⁷⁸⁷ These include: (a) Gravity of Crimes (b) Degree of Responsibility of Alleged Perpetrators and (c) Charges.⁷⁸⁸ First, the gravity of crimes is assessed similarly to gravity as a factor for legal admissibility.⁷⁸⁹ It is determined both quantitatively and qualitatively and examines the scale, nature, manner of commission, and impact of the crimes.⁷⁹⁰ Sexual and gender-based violence, violence against children, and forcible imposition of impossible conditions of life among other factors can also be appraised to gauge the scale of crime.⁷⁹¹ Second, the degree of responsibility of alleged perpetrators seeks to prosecute those most responsible for perpetrating grave crimes, prioritizing investigations and prosecutions of mid- and high-level suspects.⁷⁹² Third, the

⁷⁸⁷ The Office of the Prosecutor, ‘Policy Paper on Case Selection and Prioritisation’ (15 September 2016), 12-15.

<https://www.icc-cpi.int/sites/default/files/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf> Accessed 20 March 2024

⁷⁸⁸ The Office of the Prosecutor, ‘Policy Paper on Case Selection and Prioritisation’ (15 September 2016), 12-15.

<https://www.icc-cpi.int/sites/default/files/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf> Accessed 20 March 2024

⁷⁸⁹ The Office of the Prosecutor, ‘Policy Paper on Case Selection and Prioritisation’ (15 September 2016), para 36.

<https://www.icc-cpi.int/sites/default/files/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf> Accessed 20 March 2024

⁷⁹⁰ The Office of the Prosecutor, ‘Policy Paper on Case Selection and Prioritisation’ (15 September 2016), para 36.

<https://www.icc-cpi.int/sites/default/files/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf> Accessed 20 March 2024

See also The Office of the Prosecutor, Strategic Plan 2016-2018, 16 November 2015, para. 34-37.

⁷⁹¹ The Office of the Prosecutor, ‘Policy Paper on Case Selection and Prioritisation’ (15 September 2016), para 36.

<https://www.icc-cpi.int/sites/default/files/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf> Accessed 20 March 2024

See also The Prosecutor v. Bahar Idriss Abu Garda, “Decision on the confirmation of charges”, ICC-02/05-02/09-243-Red, 8 February 2010, para. 31; Situation in the Republic of Cote d’Ivoire, “Corrigendum to ‘Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Republic of Côte d’Ivoire’”, ICC-02/11-14-Corr, 3 October 2011, paras. 203-204.

⁷⁹² The Office of the Prosecutor, ‘Policy Paper on Case Selection and Prioritisation’ (15 September 2016), para 42.

OTP will ensure that the most serious crimes committed in a situation do not go unpunished and that the charges will constitute “a representative sample of the main types of victimization and of the communities which have been affected by the crimes in that situation.”⁷⁹³ The court should also take into consideration historically under-documented crimes including crimes against children, international humanitarian and peacekeeping personnel, and protected cultural and historical sites.⁷⁹⁴

386. In a 2003 policy document, the OTP affirmed that the preamble and Article 5 of the ICC Statute state that the Court’s purpose is to punish the “most serious crimes of concern to the international community”, but not all crimes that fall under the Court’s jurisdiction.⁷⁹⁵ In 2006, the then-Prosecutor Luis Moreno-Ocampo proposed ordering cases by the gravity of the crime in the Report on Prosecutorial Strategy—a “sequenced” approach to case selection where cases within a situation are prioritized according to their gravity.⁷⁹⁶

387. In its practice, the OTP has upheld its policy on case selection and prioritization in the Situation in Northern Uganda. During its 2005 investigations into the war crimes and crimes against humanity committed during the conflict in Uganda by the non-state forces of the Lord’s Resistance Army (LRA) and the national authorities in Uganda, former

<https://www.icc-cpi.int/sites/default/files/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf> Accessed 20 March 2024

⁷⁹³ The Office of the Prosecutor, ‘Policy Paper on Case Selection and Prioritisation’ (15 September 2016), para 45.

<https://www.icc-cpi.int/sites/default/files/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf> Accessed 20 March 2024

⁷⁹⁴ The Office of the Prosecutor, ‘Policy Paper on Case Selection and Prioritisation’ (15 September 2016), para 46.

<https://www.icc-cpi.int/sites/default/files/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf> Accessed 20 March 2024

⁷⁹⁵ The Office of the Prosecutor, ‘Paper on some policy issues before the Office of the Prosecutor’ (September 2003), 7. <https://www.icc-cpi.int/sites/default/files/NR/rdonlyres/1FA7C4C6-DE5F-42B7-8B25-60AA962ED8B6/143594/030905_Policy_Paper.pdf> Accessed 20 March 2024

⁷⁹⁶ The Office of the Prosecutor, ‘Report on Prosecutorial Strategy’, 15 September 2006, para 2 b), 5-6.

<https://www.icc-cpi.int/sites/default/files/ProsecutorialStrategy20060914_English.pdf> Accessed 20 March 2024

Prosecutor Moreno-Ocampo decided to prosecute crimes committed only by LRA against the backdrop of the comparatively higher gravity of its conduct.⁷⁹⁷ He justified his decision by arguing:

“We analysed the gravity of all crimes in Northern Uganda committed by the LRA and Ugandan forces. Crimes committed by the LRA were much more numerous and of much higher gravity than alleged crimes committed by the UPDF. We therefore started with an investigation of the LRA.”⁷⁹⁸

388. Although Prosecutor Ocampo acknowledged that Ugandan state forces may have perpetrated crimes that fall under the Court’s jurisdiction during the armed conflict, no member of the latter’s national forces has been investigated or prosecuted so far.⁷⁹⁹

389. Similarly, the current ICC Prosecutor, Karim Khan took a unilateral decision in 2021 to focus on “investigations in Afghanistan on crimes allegedly committed by the Taliban and the Islamic State-Khorasan Province (“IS-K”) and to deprioritize other aspects of this investigation”.⁸⁰⁰ The deprioritized aspects included crimes that fall under the Court’s

⁷⁹⁷ The Office of the Prosecutor, Statement by Chief Prosecutor Luis Moreno-Ocampo (14 October 2005), 3,7. <https://www.icc-cpi.int/sites/default/files/NR/rdonlyres/2919856F-03E0-403F-A1A8-D61D4F350A20/277305/Uganda_LMO_Speech_141020091.pdf> Accessed 20 March 2024

⁷⁹⁸ The Office of the Prosecutor, Statement by Chief Prosecutor Luis Moreno-Ocampo (14 October 2005), 3. <https://www.icc-cpi.int/sites/default/files/NR/rdonlyres/2919856F-03E0-403F-A1A8-D61D4F350A20/277305/Uganda_LMO_Speech_141020091.pdf> Accessed 20 March 2024

⁷⁹⁹ The Office of the Prosecutor, Statement by Chief Prosecutor Luis Moreno-Ocampo (14 October 2005), 2-3. <https://www.icc-cpi.int/sites/default/files/NR/rdonlyres/2919856F-03E0-403F-A1A8-D61D4F350A20/277305/Uganda_LMO_Speech_141020091.pdf> Accessed 20 March 2024

⁸⁰⁰ The Office of the Prosecutor, Statement of the Prosecutor of the International Criminal Court, Karim A. A. Khan QC, following the application for an expedited order under article 18(2) seeking authorisation to resume investigations in the Situation in Afghanistan (27 September 2021). <<https://www.icc-cpi.int/news/statement-prosecutor-international-criminal-court-karim-khan-qc-following-application>> Accessed 20 March 2024

jurisdiction but were predominantly perpetrated by state and military officials of the former Afghani government, international forces, and other non-state actors.⁸⁰¹

390. In the case of the genocide in Gaza, therefore, Prosecutorial discretion must be applied in a manner that is consistent with the OTP's espoused policy and practice.

391. Therefore, while all crimes that fall within the jurisdiction of the court are grave, the Prosecutor must prioritize genocide, as 'the Crime of All Crimes', prosecute suspected perpetrators who wield significant power—such as the head of the state of Israel and the commander in chief of its military, and issue charges that adequately reflect the victimization of the people in Gaza, especially its 1 million children who are at the brink of forced starvation.

392. First, the criteria of gravity states that the gravity of a crime can be evaluated through the factors of scale, nature, manner of commission, and impact of the crimes.⁸⁰² As has been well-documented throughout this communication, the situation in Gaza satisfies each of these factors at an exceedingly alarming level.⁸⁰³

393. Second, according to the OTP Policy, the degree of responsibility of the alleged perpetrator will be assessed based on "the nature of the unlawful behavior, the degree of their participation and intent, the existence of any motive involving discrimination, and any abuse of power or official capacity".⁸⁰⁴ As well documented throughout this

⁸⁰¹ Nada Kiswanson, 'Limits to Prosecutorial Discretion: The ICC Prosecutor's Deprioritisation Decision in Afghanistan' (Opinio Juris, 26 November 2021) <<https://opiniojuris.org/2021/11/26/limits-to-prosecutorial-discretion-the-icc-prosecutors-deprioritisation-decision-in-afghanistan/>> Accessed 20 March 2024

⁸⁰² The Office of the Prosecutor, 'Policy Paper on Case Selection and Prioritisation' (15 September 2016), para 38 <https://www.icc-cpi.int/sites/default/files/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf> Accessed 20 March 2024

⁸⁰³ See Section 1.1 titled Introduction. See also: International Court of Justice, Application instituting proceedings and request for the indication of provisional measures (*South Africa v Israel*), 29 December 2023. <https://www.icj-cij.org/sites/default/files/case-related/192/192-20231228-app-01-00-en.pdf>

⁸⁰⁴ International Criminal Court, Rules of Procedure and Evidence, 3-10 September 2002 (ICC-ASP/1/3 and Corr, Rules 145(1)(c) and 145(2)(b) of the Rules of Procedure and Evidence, para 43 <<https://www.icc-cpi.int/sites/default/files/RulesProcedureEvidenceEng.pdf>> Accessed 20 March 2024

communication, this criterion is satisfied when it comes to high-ranking Israeli officials, including the Prime Minister and the Minister of Defence of the State of Israel.⁸⁰⁵

394. Third, the OTP will seek to represent “the true extent of the criminality which has occurred within a given situation” through the *charges* it issues against the perpetrators in a situation.⁸⁰⁶ The charges should represent the types of violations to which victims have been subjected, particularly crimes that are under-prosecuted such as sexual violence.⁸⁰⁷ The 2016 Policy announces:

“The Office will pay particular attention to crimes that have been traditionally under-prosecuted, such as crimes against or affecting children as well as rape and other sexual and gender-based crimes. It will also pay particular attention to attacks against cultural, religious, historical, and other protected objects as well as against humanitarian and peacekeeping personnel.”⁸⁰⁸

395. As has been documented throughout this submission, the situation in Gaza has gravely affected children killing over 13,000,⁸⁰⁹ and leaving over 17,000 orphaned.⁸¹⁰ Further,

⁸⁰⁵ See Section 6 titled *Mens Rea*.

⁸⁰⁶ The Office of the Prosecutor, ‘Policy Paper on Case Selection and Prioritisation’ (15 September 2016), para 45 <https://www.icc-cpi.int/sites/default/files/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf> Accessed 20 March 2024

⁸⁰⁷ The Office of the Prosecutor, ‘Policy Paper on Case Selection and Prioritisation’ (15 September 2016), para 44-45 <https://www.icc-cpi.int/sites/default/files/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf> Accessed 20 March 2024

⁸⁰⁸ The Office of the Prosecutor, ‘Policy Paper on Case Selection and Prioritisation’ (15 September 2016), para 45 <https://www.icc-cpi.int/sites/default/files/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf> Accessed 20 March 2024

⁸⁰⁹ UNOCHA ‘Hostilities in the Gaza Strip and Israel - reported humanitarian impact, 14 March 2024 at 15:00’ (United Nations OCHA, March 2024) <<https://www.unocha.org/publications/report/occupied-palestinian-territory/hostilities-gaza-strip-and-israel-reported-humanitarian-impact-14-march-2024-1500-0>> Accessed 20 March 2024

⁸¹⁰ ‘What will become of Gaza’s orphaned generation?’ *The Stream*, *Al Jazeera* (19 Mar 2024) <<http://www.telegraph.co.uk/lifestyle/pets/10491808/Bad-dog-owners-to-blame-for-aggressive-animals-not-their-breed.html>> Accessed 20 March 2024

more than 10 children in Gaza have been amputated per day since the war began⁸¹¹ and more children have been killed in four months of the war in Gaza than in the four years of war worldwide.⁸¹² Further, the OTP shall prioritize the acts within the Gaza genocide as it also involves crimes such as the crimes of sexual violence⁸¹³ and torture⁸¹⁴ require the prosecution of the forced abduction of Palestinian men who have been stripped naked, tortured, and whose photographs and videos have been circulated on social media.⁸¹⁵ The acts of cultural destruction and crimes perpetrated against children, which the OTP policy paper specifically mentions must also be prosecuted within the broader context of genocide.⁸¹⁶

⁸¹¹ Save the Children, Gaza: More than 10 Children a Day Lose a Limb in Three Months of Brutal Conflict, (Ramallah, 7 January 2024). <<https://www.savethechildren.net/news/gaza-more-10-children-day-lose-limb-three-months-brutal-conflict>> Accessed 20 March 2024

⁸¹² ‘UNRWA head says ongoing conflict in Gaza is a ‘war against children’, Euronews, Associated Press (15 March 2024). <<https://www.euronews.com/2024/03/15/unrwa-head-says-ongoing-conflict-in-gaza-is-a-war-against-children#:~:text=The%20head%20of%20the%20UN,four%20years%20of%20wars%20%20worldwide.>>> Accessed 20 March 2024

⁸¹³ OHCHR “Israel/oPt: UN experts appalled by reported human rights violations against Palestinian women and girls” (OHCHR 19 February 2024) <<https://www.ohchr.org/en/press-releases/2024/02/israelopt-un-experts-appalled-reported-human-rights-violations-against>> Accessed 18 March 2024

⁸¹⁴ Amnesty International “Israel/OPT: Horrifying cases of torture and degrading treatment of Palestinian detainees amid spike in arbitrary arrests” (Amnesty 8 November 2023) <<https://www.amnesty.org/en/latest/news/2023/11/israel-opt-horrifying-cases-of-torture-and-degrading-treatment-of-palestinian-detainees-amid-spike-in-arbitrary-arrests/>> Accessed 18 March 2024; Haaretz “27 Gaza Detainees Have Died in Custody at Israeli Military Facilities Since the Start of the War” (Haaretz 7 March 2024) <<https://www.haaretz.com/israel-news/2024-03-07/ty-article/.premium/27-gaza-detainees-died-in-custody-at-israeli-army-facilities-since-the-start-of-the-war/000018e-1322-d950-a18e-f3bbaa370000>> Accessed 18 March 2024

⁸¹⁵ ‘Palestinians detained by Israel in Gaza blindfolded, stripped to underwear’, Al Jazeera (8 December 2023) <<https://www.aljazeera.com/news/2023/12/8/video-photos-appear-to-show-detainees-stripped-to-underwear-in-gaza>> Accessed 20 March 2024

⁸¹⁶ The Office of the Prosecutor, ‘Policy Paper on Case Selection and Prioritisation’ (15 September 2016), para 45 <https://www.icc-cpi.int/sites/default/files/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf> Accessed 20 March 2024

396. Therefore, in investigating and prosecuting crimes perpetrated in Palestine after October 7, 2023, the Court must prioritize acts that may constitute genocide because they meet the abovementioned, three-pronged threshold of gravity, degree of responsibility, and charges.

8.2 Comparative Case Prioritization by the Prosecutor

397. The Court must also prioritize an investigation into Gaza over its other ongoing cases. The escalating number of casualties resulting from crimes of the gravest nature in Gaza since October 2023 justifies prioritizing such an investigation and any potential cases arising from it, in line with the OTP's previous practice. For instance, in 2006, the Prosecutor refused to open an investigation into Iraq following an assessment that involved quantitative comparisons in relation to other situations under investigation by the OTP.⁸¹⁷ Prosecutor Moreno-Ocampo stated:

“The number of potential victims of crimes within the jurisdiction of the Court in this situation – 4 to 12 victims of wilful killing and a limited number of victims of inhuman treatment – was of a different order than the number of victims found in other situations under investigation or analysis by the Office. It is worth bearing in mind that the OTP is currently investigating three situations involving long-running conflicts in Northern Uganda, the Democratic Republic of Congo, and Darfur. Each of the three situations under investigation involves thousands of wilful killings as well as intentional and large-scale sexual violence and abductions. Collectively, they have resulted in the displacement of more than 5 million people. Other situations under analysis also feature hundreds or thousands of such crimes.”⁸¹⁸

⁸¹⁷ Letter from Luis Moreno-Ocampo, Chief Prosecutor, ICC, Concerning the Situation in Iraq (9 February 2006), 9 <https://www.icc-cpi.int/sites/default/files/NR/rdonlyres/04D143C8-19FB-466C-AB77-4CDB2FDEBEF7/143682/OTP_letter_to_senders_re_Iraq_9_February_2006.pdf> Accessed 20 March 2024

⁸¹⁸ Letter from Luis Moreno-Ocampo, Chief Prosecutor, ICC, Concerning the Situation in Iraq (9 February 2006), 9 <https://www.icc-cpi.int/sites/default/files/NR/rdonlyres/04D143C8-19FB-466C-AB77-4CDB2FDEBEF7/143682/OTP_letter_to_senders_re_Iraq_9_February_2006.pdf>

398. The situation in Gaza has resulted in death and destruction that supersedes the number of child deaths supersedes in almost all contemporary conflicts across the world.⁸¹⁹ For instance, Israeli forces killed nearly the same number of Palestinian children in Gaza that were killed over the eleven years of the Afghanistan War (8,099) and nearly double the official number of children killed over seven and a half years of the Yemen war (3,774).⁸²⁰ Syria's twelve-year-long civil war killed nearly 30,127 children, but the latter's seven-child-deaths-a-day average is still outpaced by the 160-per-day rate of killing children achieved by Israel.⁸²¹

399. Further, the OTP should prioritize cases specifically against Israeli officials for the crimes presented under the present communication. In the 2016 Policy Paper, the OTP outlined several factors to be considered collectively, to prioritize cases.⁸²² In particular, the OTP will consider whether a person or members of the same group have already been subject to investigation or prosecution either by the OTP or by a State for another serious crime in its strategic case prioritization criteria.⁸²³ Therefore, the OTP must consider that

[4CDB2FDEBEF7/143682/OTP letter to senders re Iraq 9 February 2006.pdf](#)> Accessed 20 March 2024

⁸¹⁹ 'Is Israel's Gaza war the deadliest conflict for children in modern times?', Al Jazeera (7 November 2023) <<https://www.aljazeera.com/news/2023/11/7/is-israels-gaza-war-the-deadliest-conflict-for-children-in-modern-times>> Accessed 20 March 2024

⁸²⁰ Save the Children, Gaza: 3,195 Children Killed in Three Weeks Surpasses Annual Number of Children Killed in Conflict Zones since 2019 (Ramallah, 29 October 2023) <<https://www.savethechildren.net/news/gaza-3195-children-killed-three-weeks-surpasses-annual-number-children-killed-conflict-zones#:~:text=The%2520number%2520of%2520children%2520reported%2520killed%2520in%2520just%2520three%2520weeks,for%2520the%2520last%2520three%2520years>> Accessed 20 March 2024

⁸²¹ Branko Marcetic, Israel's Assault on Gaza Is Unlike Any War in Recent Memory, Jacobin (19 December 2023) <<https://jacobin.com/2023/12/israel-defense-forces-gaza-palestine-civilian-death-casualties-women-children-journalists-war>> Accessed 20 March 2024

⁸²² The Office of the Prosecutor, 'Policy Paper on Case Selection and Prioritisation' (15 September 2016), para 50 <https://www.icc-cpi.int/sites/default/files/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf> Accessed 20 March 2024

⁸²³ The Office of the Prosecutor, 'Policy Paper on Case Selection and Prioritisation' (15 September 2016), para 50 b)

Israeli officials have already been under investigation for crimes that fall under the court’s jurisdiction since 2015.⁸²⁴ For instance, the current Israeli Prime Minister was also the Head of State of Israel at the time of the military conduct currently under the OTP’s investigation including the 2014 onslaught upon Gaza—Operation Protective Edge, the Great March of Return in Gaza in 2018, and the ongoing illegal Israeli settlement activity in the West Bank.⁸²⁵

400. The OTP shall also, for instance, consider “c) the impact of investigations and prosecutions on the victims of the crimes and affected communities; d) the impact of investigations and prosecutions on ongoing criminality and/or their contribution to the prevention of crimes”.⁸²⁶ As outlined throughout this report, the ongoing military campaign in Gaza must be viewed within a historical context of seven decades of ethnic cleansing, settler colonial erasure, and Israeli impunity.⁸²⁷ Palestinians have long awaited the delivery of international criminal justice, particularly via the ICC, for the acts, conduct, and operations by Israel that have formed the object of the OTP’s preliminary examination and investigation activities for ten years.⁸²⁸

<https://www.icc-cpi.int/sites/default/files/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf> Accessed 20 March 2024

⁸²⁴ The Office of the Prosecutor, ‘Statement of ICC Prosecutor, Fatou Bensouda, respecting an investigation of the Situation in Palestine’ (3 March, 2021) <<https://www.icc-cpi.int/news/statement-icc-Prosecutor-fatou-bensouda-respecting-investigation-situation-palestine>> Accessed 20 March 2024

⁸²⁵ The Office of the Prosecutor, ‘Situation in Palestine | Summary of Preliminary Examination Findings’ (20 December, 2019), para 2, 4-5 <https://www.icc-cpi.int/sites/default/files/itemsDocuments/210303-office-of-the-Prosecutor_-palestine-summary-findings-eng.pdf> Accessed 20 March 2024

⁸²⁶ The Office of the Prosecutor, ‘Policy Paper on Case Selection and Prioritisation’ (15 September 2016), para 50

<https://www.icc-cpi.int/sites/default/files/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf> Accessed 20 March 2024

⁸²⁷ See Section 2 titled Historical Background

⁸²⁸ ‘President meets ICC Prosecutor, urges swift action against Israeli aggression’, Wafa News Agency (2 December 2023) <<https://english.wafa.ps/Pages/Details/139775>> Accessed 20 March 2024

401. The Policy also states that the OTP shall prioritize cases according to certain operational factors including the availability of relevant evidence.⁸²⁹ The situation in Gaza has been described as the “first genocide in history where its victims are broadcasting their own destruction in real-time in the desperate and so far vain hope that the world might do something”.⁸³⁰ There is an abundance of evidence (including photos, videos, and testimonies) of the grave crimes perpetrated against Palestinians in Gaza documented by nongovernmental organizations, international aid agencies, journalists, and the victims themselves.

402. In view of the above analysis, the crime that forms the object of this communication is of sufficient gravity that it necessitates the OTP’s prioritization of the situation in Gaza over other ongoing investigations. Furthermore, the OTP must also prioritize cases under Article 6 of the Statute against Israeli officials over other potential cases within the Situation in Palestine.

⁸²⁹ The Office of the Prosecutor, ‘Policy Paper on Case Selection and Prioritisation’ (15 September 2016), para 51a)

<https://www.icc-cpi.int/sites/default/files/itemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf> Accessed 20 March 2024

⁸³⁰ Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)(Verbatim record: Oral Argument at the International Court of Justice by Ms Blinne Ní Ghrálaigh, KC,) 11 January 2024, CR 2024/1, para 31, 71. <<https://www.icj-cij.org/sites/default/files/case-related/192/192-20240111-ora-01-00-bi.pdf>> Accessed 20 March 2024.

9. CONCLUSION

403. Israel's leadership and armed forces have historically and continuously violated the rights of the Palestinian people with impunity. Since the Nakba, Israel has maintained a policy of colonisation, apartheid and ethnic cleansing. Since October 7 these historic policies have escalated into genocide within Gaza. 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 it can operate with impunity, conduct military campaigns without respect for basic humanitarian law regulations and ultimately, commit the most serious of crime under international criminal law, genocide.

404. Given its responsibility under the Rome Statute, the ICC cannot continue to ignore the growing evidence of Israel's actions and intentions of genocide towards the Palestinian people in Gaza. The court must move 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. 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. Palestine is such a case where the court has been particularly slow, despite clear evidence of Israel's violations of international criminal law. We hope that this submission spurs the court to action where so far it has proven lax, particularly in the face of an ongoing genocide. 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.

9.1 Recommendations to the Court

405. 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 military officials during Israel's military operation in the Gaza Strip, which continues to this day.

406. 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.

407. 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.

408. The organizations strongly urge the Prosecutor and his team to promptly visit the Gaza Strip to engage with victims and witness firsthand the dire consequences of the ongoing genocide. We also call the Prosecutor and his team to urgently meet with victims and their families who have relocated from the Gaza Strip to Egypt and other countries worldwide.

409. The organizations also call upon the Prosecutor of the International Criminal Court to utilize prosecutorial discretion in accordance with the office's historical practices and policies to give precedence to investigations into the situation in Gaza and the prosecution of Israeli officials for acts committed since October 7, 2023. This prioritization should

particularly focus on actions that amount to the crime of genocide under Article 6 of the Rome Statute of the International Criminal Court, along with related crimes, based on the gravity of the offenses committed.

Annex 1

Law for Palestine's Database of Israeli Incitement to Genocide

Database of Israeli Incitement to Genocide
15th January 2024
DECISION MAKERS

The information within this database is compiled from publicly available sources. While translations are included for heightened accessibility, their fidelity to the original text may not always be precise. Law for Palestine bears no responsibility for the accuracy or completeness of the information provided. The organization apprehensively acknowledges that the statements documented in the database may collectively amount to potential evidence of a breach of the Genocide Convention. The ultimate adjudication of this matter is contingent upon the determination of a competent court.

No.	Date	Author	Position	Topic	Quote	Original language	Link
1	11/11/2023	Yoav Gallant	Minister of Defense	civilian harm	"I am saying here to the citizens of Lebanon, I already see the citizens in Gaza walking with white flags along the coast... If Hezbollah makes mistakes of this kind, the ones who will pay the price are first of all the citizens of Lebanon. What we are doing in Gaza, we know how to do in Beirut."	Hebrew	https://twitter.com/omarrahman/status/1723449658179977278?s=20 https://www.timesofisrael.com/liveblog_entry/touring-north-gallant-warns-hezbollah-close-to-making-a-grave-mistake/
2	09/10/2023	Yoav Gallant	Minister of Defense	civilian harm/collective punishment	"We will end things inside Gaza [...] I have removed all restraints, [you're allowed to] attack everything, kill those who fight us, whether there is one terrorist or there are hundreds of terrorists, [ordering to attack] through the air, land, with tanks, with bulldozers, by all means, there are no compromises. Gaza will not return to what it was." The patriots on channel 14 episode posted October 9 2023 Gallant [19:38 – 20:17] minutes	Hebrew	https://www.youtube.com/watch?v=PL8E54R76rowCCoN_HQf36o1RF3_oD3z4
3	12/11/2023	Binyamin Netanyahu	Prime Minister	genocidal intent/civilian harm/collective punishment	Benjamin Netanyahu Calls Civilian Deaths in Gaza 'Collateral Damage' The Israeli prime minister's comments come as the Palestinian death toll soars over 11,000.	English	https://www.nbcnews.com/meet-the-press/video/full-netanyahu-everyone-in-the-world-is-sitting-on-the-bleachers-197679685846 https://www.huffpost.com/entry/benjamin-netanyahu-calls-civilian-deaths-in-gaza-collateral-damage_n_6552863ee4b0c9f246614ad9#?text=The%20Israeli%20prime%20minister's%20comments%20toll%20soars%20over%2011%20000 . Another link: https://www.huffingtonpost.co.uk/entry/benjamin-netanyahu-israel-gaza-collateral-damage_n_655119bfe4b0373d70b28a56 Another link: https://www.huffingtonpost.co.uk/entry/benjamin-netanyahu-israel-gaza-collateral-damage_n_655119bfe4b0373d70b28a56
4	07/10/2023	Binyamin Netanyahu	Prime Minister	civilian harm/collective punishment	"Gaza is the city of evil, we will turn all the places in which Hamas deploys and hides into ruins. I am telling the people of Gaza – get out of there now. We will act everywhere and with full power"	to be updated	https://www.theguardian.com/world/2023/oct/13/israel-darkest-day-24-hours-of-terror-hamas-gaza
5	17/11/2023	Binyamin Netanyahu	Prime Minister	genocidal intent/civilian harm/collective punishment	"It is necessary to make cultural changes in Gaza such as in Japan and Germany following WWII"	English	https://twitter.com/LowkeyOnline/status/1725589875448258669 + https://www.npr.org/2023/11/17/1213684429/benjamin-netanyahu-israel-hamas-gaza + https://www.npr.org/transcripts/1213684429#:~:text=We%20need%20a%20cultural%20change,it%20has%20to%20teach%20t
6	14/12/2023	Yoav Gallant	Minister of Defense	civilian harm/ forced displacement	After making the northern part of the Gaza strip inhabitable - "the campaign will last for months to come and include the southern area of the strip"	Hebrew	https://www.ynet.co.il/news/article/s1s0nw4a
7	18/11/2023	Yoav Gallant	Minister of Defense	genocidal intent	"Soon they'll realize the IDF's power, even in the southern part [of Gaza]" he added: ""Those who were on the western side of Gaza City understand this well and have already met the deadly power of the IDF, those who are on the eastern side understand this tonight and will understand it in the coming days, and those who are in the south of the Gaza Strip will also understand this soon."	Hebrew	https://www.ynet.co.il/news/article/hksy6ui4p
8	19/11/2023	Binyamin Netanyahu	Prime Minister	civilian harm/collective punishment	"[aid] is important for our allies to stand beside us, without it they'll find it hard to support us [regarding their actions in the strip]" (writer note: this is regarding fuel entering the Gaza strip for the first time since Oct 7 - agreed upon is "two tanks a day") "It is impossible to establish a military victory without political backing, and that the cabinet insists on Israel's security interests in the face of strong opposition. At this point, Netanyahu explained that humanitarian aid to Gaza is necessary for continued international support for Israel, and that without such aid - even its good friends will have difficulty supporting it for a long time, and it will be very difficult for Israel to continue the war until the end: "That's why when the IDF and Shin Bet jointly recommended to the cabinet to accept The war cabinet unanimously agreed to the American request to allow a limited entry of two fuel tankers a day into the southern Gaza Strip." Netanyahu added: The amount of fuel that will be put into the Strip is a minimum emergency amount whose purpose is to operate water and sewage pumps, without which the immediate spread of epidemics is expected, which could also harm IDF soldiers and Israeli citizens.	Hebrew	https://www.ynet.co.il/news/article/hksy6ui4p?utm_source=ynet.app.ios&utm_term=hksy6ui4p&utm_campaign=general_share&utm_medium=social&utm_content=Header
9	21/11/2023	Binyamin Netanyahu	Prime Minister	genocidal intent / civilian harm	"one of the things that make the achievements possible is a "political iron dome", and that after 43 days of hard fighting, international backing is not a matter of course. After mentioning the large amount of military aid that the US sent to Israel, he said: "Both within the US and around the world, increasing pressures are being exerted against us in recent weeks." He said that Israel repelled many pressures - including the demand not to enter the Gaza Strip, Gaza City and Shifa Hospital, but Israel entered all of them. "They pressured us to agree to a full ceasefire - we refused, And I made it clear that we would only agree to a temporary ceasefire, and only in exchange for the return of our hostages." (writer note: this came after questionable evidence was posted by idf in al shifaa and other places in Gaza city regarding "findings" and various refusals of hostage deals cited in this file and in news in general.)	Hebrew	https://www.ynet.co.il/news/article/hksy6ui4p?utm_source=ynet.app.ios&utm_term=hksy6ui4p&utm_campaign=general_share&utm_medium=social&utm_content=Header
10	22/11/2023	Binyamin Netanyahu	Prime Minister	forced displacement	Netanyahu again said at the press conference that there is no place for the Palestinian Authority to rule in the Strip after Israel withdraws from it. His words came at the very time when US President Joe Biden published an article in the "Washington Post", in which he wrote that the Gaza Strip and the West Bank should be united under one governing body, which will eventually be the Palestinian Authority after it is breathed into it. When asked about the words in Biden's article, Netanyahu said: "I think that the Palestinian Authority in its current form is not capable of accepting responsibility for Gaza. After we fought and did all this thing we give them the strip?"	Hebrew	https://www.ynet.co.il/news/article/hksy6ui4p?utm_source=ynet.app.ios&utm_term=hksy6ui4p&utm_campaign=general_share&utm_medium=social&utm_content=Header
12	10/10/2023	Yoav Gallant	Minister of Defense	civilian harm/collective punishment	Gallant meets with soldiers in the Gaza Strip: "I have removed all restraints, we are moving on to an attack" Defense Minister Yoav Gallant toured the Gaza Strip today and spoke with soldiers on the ground. Gallant told the soldiers at the Gaza border: "I have removed all restraints, we have taken control of the sector (meaning Gaza strip) and are moving on to a full attack. Hamas wanted change in Gaza, you will have the right to "turn the wheel" against them." (meaning turn that against them)	Hebrew	https://www.ynet.co.il/news/article/ryxikI26 , https://twitter.com/law4palestine/status/1712920025894420981?s=46&t=JaT3Sau_w01LZ8_9xVlA https://www.timesofisrael.com/liveblog_entry/gallant-israel-moving-to-full-offense-gaza-will-never-return-to-what-it-was?fbclid=IwAR08_Kw54MwTzBPUO3kt4ps8oxPOG8TRU-1YzBAVqzFCswmpzHk1VgnE
13	13/10/2023	Isaac Herzog	President	collective punishment	"It's an entire nation out there that is responsible. This rhetoric about civilians not aware, not involved, it's absolutely not true. They could've risen up, they could have fought against that evil regime."	English	https://twitter.com/Sprinter99800/status/1713064886027063584
14	25/10/2023	Binyamin Netanyahu	Prime Minister	dehumanisation / genocidal intent	"We are the people of the light, they are the people of darkness... we shall realize the prophecy of Isaiah."	Hebrew (translated to English by news station)	https://twitter.com/disclosetv/status/1717232829766009086?s=20

15	21/10/2023	Yoav Gallant	Minister of Defense	destruction / collective punishment	"We consider that since the day the war has begun, the final and complete destruction of the Hamas organization began". The patriots on channel 14 episode posted October 21 2023 [reportage, 1:22:41-1:23:28] minutes aprox.	Hebrew	https://www.youtube.com/playlist?list=PL8E54R76rowCcCOn_HQf36o1RF3_oD3z4
16	23/11/2023	Yoav Gallant	Minister of Defense	civilian harm / collective punishment	Israeli officials have said that following the 4-day pause they will continue the bombardment of Gaza for "at least another two months". (background information: this followed after the Israeli families of the hostages gathered with the cabinet prior to the truce, where some left saying that the release of hostages does not seem like a priority - which subsequently pushed Natanayahu and the cabinet to agree to a truce to release some, and not all hostages. Gallant's statement regarding resuming the inaccurate bombardment of Gaza, without distinction between civilians and fighters, comes as reassurment for the families' feelings regarding the matter.)	Hebrew (translated to English by news station)	https://www.theguardian.com/world/live/2023/nov/23/israel-hamas-war-live-updates-gaza-ceasefire-hostage-release-friday-israeli-us-officials?filterKeyEvents=false&page=with-block-655f933f8f082789f674580a#block-655f933f8f082789f674580a
17	09/10/2023	Yoav Gallant	Minister of Defense	genocidal intent / dehumanisation / collective punishment	"I have ordered a complete siege on the Gaza Strip. There will be no electricity, no food, no fuel, everything is closed," "We are fighting human animals and we are acting accordingly"	Hebrew	https://www.youtube.com/watch?v=ZbPdR3E4hCk
18	28/10/2023	Binyamin Netanyahu	Prime Minister	dehumanisation / genocidal intent	"You must remember what Amalek has done to you, says our Holy Bible"	Hebrew	https://twitter.com/mtracey/status/1718360354764238929?s=20
19	10/10/2023	Yoav Gallant	Minister of Defense	civilian harm / collective punishment / genocidal intent	"We will eliminate everything. If it doesn't take one day, it will take a week, it will take weeks, or even months, we will reach all places. There is no way that our brothers, our children, our parents will be killed and we won't react because we are a state, — they will regret it"	Hebrew	https://www.youtube.com/watch?v=vtjHcnNB0E8
20	29/11/2023	Benny Gantz	War cabinet minister	civilian harm / collective punishment / genocidal intent	"The fighting will continue to and expand to any place necessary in the Gaza strip. There will be no sanctuary cities."	Hebrew	https://youtube.com/shorts/kwvSemJzsw?feature=shared
21	24/12/2023	Binyamin Netanyahu	Prime Minister	genocidal intent / dehumanisation	"we're facing monsters, monsters who murdered children in front of their parents . . . This is a battle not only of Israel against these barbarians, it's a battle of civilization against barbarism"	Hebrew	https://www.gov.il/en/departments/news/christmas-message-from-pm-netanyahu-24-dec-2023
22	15/10/2023	Isaac Herzog	President	genocidal intent / dehumanisation / collective punishment	"we will uproot evil so that there will be good for the entire region and the world."	English	https://twitter.com/isaac_Herzog/status/1713661051986678189

Database of Israeli Incitement to Genocide

15th January 2024

LEGISLATORS

The information within this database is compiled from publicly available sources. While translations are included for heightened accessibility, their fidelity to the original text may not always be precise. Law for Palestine bears no responsibility for the accuracy or completeness of the information provided. The organization apprehensively acknowledges that the statements documented in the database may collectively amount to potential evidence of a breach of the Genocide Convention. The ultimate adjudication of this matter is contingent upon the determination of a competent court.

No.	Date	Author	Position	Topic	Quote	Original language	Link
1	07/10/2023	Revital Gottlieb	Member of the Israeli Knesset (Likud)	genocidal intent / civilian harm / collective punishment	Bring down buildings!! Bomb without distinction!! Stop with this impotence. You have ability. There is worldwide legitimacy!! Flatten Gaza. Without mercy! This time, there is no room for mercy!	Hebrew	https://twitter.com/YehudaShaul/status/1714301964886917631
2	08/10/2023	Ariel Kalliner	Member of the Israeli Knesset (Likud)	genocidal intent	"Nakba to the enemy now! This day is our Pearl Harbor. We will still learn the lessons. Right now, one goal: Nakba! A Nakba that will overshadow the Nakba of 48. A Nakba in Gaza and a Nakba for anyone who dares to join!."	Hebrew	https://twitter.com/YehudaShaul/status/1714301966761771362
3	09/10/2023	Bezalel Smotrich	Minister of Finance	genocidal intent/ civilian harm	"The unequivocal goal of the war we are in the midst of is [...] the complete dismantling of [military and] civilian capabilities". The patriots on channel 14 episode posted October 9 2023 [02:11 – 02:22]	Hebrew	https://www.youtube.com/playlist?list=PL8E54R76rowCcOn_HQf36o1RF3_oD3z4
4	09/10/2023	Yoav Kisch	Minister of Education	genocidal intent	"Every Jew knows the saying 'Remember what Amalek did unto thee by the way [...] and that is what [H] did and their judgement shall be to destroy them, full stop. I relate to them like Amalek.' The patriots on channel 14 episode posted October 9 2023 [27:20 – 27:34]	Hebrew	https://www.youtube.com/playlist?list=PL8E54R76rowCcOn_HQf36o1RF3_oD3z4
5	09/10/2023	Yoav Kisch	Minister of Education	genocidal intent/ dehumanisation	"Those are animals, they have no right to exist. I am not debating they way it will happen, but they need to be exterminated". The patriots on channel 14 episode posted October 9 2023 [27: 39 – 27:47]	Hebrew	https://www.youtube.com/playlist?list=PL8E54R76rowCcOn_HQf36o1RF3_oD3z4
6	09/10/2023	Yoav Kisch	Minister of Education	genocidal intent/ forced displacement	"This [attack] is not enough, there should be more, there should be no limits to the response, I said it a million times, until we see hundreds of thousands fleeing Gaza, we, the IDF has not achieved its mission, this is a phase that should happen, I am saying this cause these are instructions that were said to the IDF [...] I also do not want [the IDF] to get inside [Gaza] before crushing everything. I'd rather the falling of fifty buildings than one more casualty to our forces". The patriots on channel 14 episode posted October 9 2023 [30:48 – 31:26]	Hebrew	https://www.youtube.com/playlist?list=PL8E54R76rowCcOn_HQf36o1RF3_oD3z4
7	10/10/2023	Moshe Feiglen	Israeli Politician and leader of Zehut	collective punishment	"A fire storm should wash over Gaza"	Hebrew	https://www.youtube.com/watch?v=5yPiM9G-Fo
8	10/10/2023	Nissim Vaturi	Deputy Speaker of Knesset (Likud)	genocidal intent	In a series of edited tweets, Vaturi tweets first: Erase Gaza. Nothing else will satisfy us. It is not acceptable that we maintain a terrorist authority next to Israel. Don't leave a child there expel everyone.", he then edited the tweet to: Erase Gaza. Nothing else will satisfy us. It is not acceptable that we maintain a terrorist authority next to Israel. Do not leave a child there expel all the ones who will remain so that they will not have a resurrection. An finally: Erase Gaza. Nothing else will satisfy us. It is not acceptable that we maintain a terrorist authority next to Israel. Do not leave a child there expel all the remaining ones at the end, so that they will not have a resurrection.	Hebrew	https://twitter.com/nissimv/status/1711261388809568458
9	12/10/2023	Israel Katz	Minister of Energy	collective punishment/ civilian harm	"A watershed will not be opened until the abductees are returned home. That no one will preach to us." (on humanitarian aid to the residents of Gaza)	Hebrew	https://twitter.com/n12news/status/1712360909937455132?s=46&t=jaT3Sau_w01LZ8_9xYILA
10	12/10/2023	Maj. Gen. Ghassan Alian	Coordinator of Government Activities in the Territories	collective punishment	"You wanted hell, you will get hell"	Arabic	https://twitter.com/mazenmahdi/status/1713269549548650557?s=46&t=jaT3Sau_w01LZ8_9xYILA
11	13/10/2023	May Golan	Minister for the Advancement of the Status of Women in Israel	civilian harm	"I don't care about Gaza. I literally don't care at all. They can go out and swim in the sea. I want to see dead bodies of terrorists around gaza."	English	https://twitter.com/PODEMOS/status/1712749638770438487
12	13/10/2023	Almog Cohen	Minister Otza Yehudit (Jewish Power)	genocidal intent/ civilian harm	MK Almog Cohen to Channel 7: Destroy a neighborhood in Gaza every day the abductees are in their hands. If we blink, we run out of global credit. Every day that the abductees are with them, a neighborhood must be destroyed on its inhabitants and I will be called cruel. It is a Middle Eastern language.	Hebrew	https://www.inn.co.il/news/618433
13	15/10/2023	Eli Cohen	Minister of Foreign Affairs	forced displacement	Former Justice Minister Gideon Sa'ar stated that the Gaza Strip "must be smaller at the end of the war ... Whoever starts a war against Israel must lose territory." This sentiment was echoed by Foreign Minister Eli Cohen.	English	https://www.arabnews.com/node/2400096
14	16/10/2023	Gideon Saa'r	Member of the Israeli Knesset (former Minister of Justice)	collective punishment / forced displacement	"Gaza needs to be smaller at the end of the war"	Hebrew	https://www.instagram.com/reel/Cydlrpn1y/?igshid=MzRlODBiNWFlZA%3D%3D
15	16/10/2023	Boaz Bismuth	Member of the Israeli Knesset (Likud)	genocidal intent / collective punishment	"We must not show mercy to cruel people, there is no place for any humanitarian gestures – we must erase the memory of Amalek (biblical tribe hostile to the Israelites) ."		https://www.inn.co.il/flashes/954554
16	16/10/2023	Oded Forer	Member of the Israeli Knesset (Yisrael Beiteinu)	collective punishment	"There cannot be any humanitarian aid in [Gaza] while there are hostages in the Gaza Strip who are not receiving any humanitarian aid and are not receiving any visits, not from the Red Cross, and no one has any idea what is happening to them"	Hebrew	https://twitter.com/YehudaShaul/status/1717219194675093849
17	16/10/2023	Tzipi Hotovely	Israeli Ambassador to the UK	collective punishment	Israeli Ambassador to the UK Tzipi Hotovely said: "There is no humanitarian crisis." Incredibly, she went on to state that "the humanitarian crisis at the moment is in Israel."	English	https://twitter.com/SaulStanforth/status/1713811260662255910?s=20 https://twitter.com/j/status/1713811260662255910
18	16/10/2023	Ohad Tal	Member of the Israeli Knesset (National Union–Tkuma)	forced displacement	Ohad Tal, a Religious Zionism lawmaker, called for the return of settlements to Gaza: "We cannot go back to the same conception ... we need to exact a territorial price from Hamas), including returning Jewish settlements at least to the north of Gaza Strip." Acquiring territory through war is illegal under international law.	Hebrew	https://twitter.com/YehudaShaul/status/1717219196788973576?s=20 AND https://www.inn.co.il/news/616871

19	16/10/2023	Boaz Bismuth	Member of the Israeli Knesset (Likud)	genocidal intent / civilian harm / collective punishment	"We must not show mercy to cruel people, there is no place for any humanitarian gestures – we must erase the memory of Amalek (biblical tribe hostile to the Israelites) ."	Hebrew	https://www.inn.co.il/flash/954554
20	17/10/2023	Moshe Feiglin	Israeli Politician and leader of Zehut	genocidal intent/ forced displacement	"If the goal of this operation is not destruction, occupation, deportation and settlement, we have done nothing. In the end, the whole country will be [Kibbutz] Be'er"	Hebrew	https://twitter.com/YehudaShaul/status/1714301995002020296
21	17/10/2023	Moshe Feiglin	Israeli Politician and leader of Zehut	occupation / settlement	"It is not Hamas that should be eliminated. Gaza should be razed and Israel's rule should be restored to the place. This is our country."	Hebrew	https://twitter.com/YehudaShaul/status/171430199703814288
22	17/10/2023	Revital Gottlieb	Member of the Israeli Knesset (Likud)	genocidal intent	"A leadership that has mercy on monsters who massacred us is not worthy of leadership. A ceasefire for several hours is surrender, it is weakness, humiliation ... Without crushing Hamas and razing Gaza, we will not have the right to exist"	Hebrew	https://twitter.com/YehudaShaul/status/1714302002111430835
23	17/10/2023	Omer Bar-Lev	Former Minister of National Security	collective punishment	"A complete siege on Gaza. No water, no electricity, no food. Like in Beirut 1982. Water for the south of the Gaza Strip - only in exchange for the return of the kidnapped children and women."	Hebrew	https://twitter.com/YehudaShaul/status/171721917889631132
24	17/10/2023	Amichai Eliyahu	Minister of Heritage	collective punishment / forced displacement	"The spirit of Oslo is still here. And if we don't get rid of it ... we will lose again. With Nazis & their assistants, you don't talk. You eradicate evil from the world. Do you want your pop. [in Gaza] to drink? Release the hostages. Now"	Hebrew	https://twitter.com/YehudaShaul/status/1717219198605168707
25	17/10/2023	Miki Levi and Tally Gottlieb	Members of the Israeli Knesset	collective punishment/ civilian harm	as a response to Knesset member Aida Touma saying "the lives of children of Gaza and the Gaza envelope both matter" - "no they don't, there is no symmetry"	Hebrew	https://twitter.com/AidaTuma/status/1714223260819198199
26	19/10/2023	Nissim Vaturi	Deputy Speaker of Knesset (Likud)	genocidal intent/ forced displacement	Nissim Vaturi, the deputy Knesset speaker, threatened: "Nakba? Expel them all. If the Egyptians care so much for them — they are welcome to have them wrapped in cellophane tied with a green ribbon."	Hebrew	https://twitter.com/YehudaShaul/status/1717219172281631058?s=20
27	19/10/2023	Itamar Ben Gvir	National Security Minister	settler violence	Itamar Ben Gvir: we're allowing thousands of people to acquire weapons [...] allowing as many civilians as possible to have weapons, we're buying more and more weapons and distributing them" (In video) "These days we passed major concessions regarding the licensing of firearms for civilians," said Ben Gvir, "at the same time, we are promoting the project of establishing and strengthening the standby classes. As I instructed: as many standby classes as possible, as many weapons as possible" "Wherever there was a weapon - the dimensions of the disaster were smaller"	Hebrew	https://www.ynet.co.il/news/article/h1smrcowt
29	21/10/2023	Shlomo Karhi	Minister of Communications	genocidal intent	"The complete destruction (the same term could be used for "cleansing") of the Hamas will happen in our own way", (writer note: as a response to international pressure regarding the number of civilians harmed). The patriots on channel 14 episode posted October 21 2023 [32:32-32:37] minutes approx	Hebrew	https://www.youtube.com/playlist?list=PL8E54R76rowCcOo_HQf36o1RF3_oD3z4
30	22/10/2023	Yair Lapid	Member of the Israeli Knesset (Yesh Atid)	civilian harm / collective punishment	"The majority of the 12,000 dead Palestinians were terrorists. [...] Good riddance." The majority are in fact innocent women and children, with more than 5,000 children barbarically killed, and thousands of women, elderly, journalists and medical staff, and thousands unaccounted for under the rubble.	English	https://news.sky.com/video/israel-hamas-war-we-are-fighting-for-our-lives-israels-opposition-leader-12990378 Another link: https://www.instagram.com/reel/Cz3_25zoQIS/?igshid=ZWI2YzEzYmMxYg%3D%3D
31	23/10/2023	Revital Gottlieb	Member of the Israeli Knesset (Likud)	genocidal intent / collective punishment	"Without hunger and thirst among the Gazan population, we will not succeed in recruiting collaborators, we will not succeed in recruiting intelligence, [or]... in bribing people with food, drink, medicine, in order to obtain intelligence."	Hebrew	https://twitter.com/YehudaShaul/status/1723375950673449198
32	25/10/2023	Ohad Tal	Member of the Israeli Knesset (National Union–Tkuma)	forced displacement	"We cannot go back to the same conception... we need to exact a territorial price from them [Hamas], including returning Jewish settlements at least to the north of Gaza Strip"	Hebrew	https://twitter.com/YehudaShaul/status/1717219196788973576 Another link: https://www.inn.co.il/news/616871
33	25/10/2023	Itamar Ben Gvir	Minister of National Security	collective punishment	"As long as Hamas does not release the hostages it is holding - the only thing that needs to enter Gaza is hundreds of tons of explosives by the Air Force, and not an ounce of humanitarian aid."	Hebrew	https://twitter.com/YehudaShaul/status/1717219201096499426
34	25/10/2023	MK Amit Halevi	Member of the Israeli Knesset (Likud)	forced displacement	"there should be 2 goals for this victory: 1. There is no more Muslim land in the Land of Israel... After we make it the land of IL, Gaza should be left as a monument, like Sodom..."	Hebrew	https://twitter.com/YehudaShaul/status/1717219175054115240
35	26/10/2023	Almog Cohen	Minister Otza Yehudit (Jewish Power)	civilian harm	MK Almog Cohen: "We will destroy Hamas without mercy - I want revenge" "That the beach of Gaza will be the blood of terrorists and I am not ashamed to say that"	Hebrew	https://www.0404.co.il/?p=926598 the interview can be found at: https://www.youtube.com/watch?v=2vHRuqfpWf8
36	30/10/2023	Unnamed Israeli Officials	Unnamed Israeli Officials	genocidal intent	"It became evident to US officials that Israeli leaders believed mass civilian casualties were an acceptable price in the military campaign," the New York Times wrote, adding: "In private conversations with American counterparts, Israeli officials referred to how the United States and other allied powers resorted to devastating bombings in Germany and Japan during World War II — including the dropping of the two atomic warheads in Hiroshima and Nagasaki — to try to defeat those countries."	English	https://www.nytimes.com/2023/10/30/us/politics/biden-israel.html https://www.palestinechronicle.com/israeli-willing-to-cause-mass-civilian-casualties-among-palestinians-nyt/
37	30/10/2023	Ron Dermer	Minister of Strategic Affairs	civilian harm	"Disagreement in the cabinet over humanitarian aid.. Netanyahu: It serves the goals of the war on Gaza" Minister of Strategic Affairs Ron Dermer stresses that allowing humanitarian aid is "necessary as part of the fighting strategy, to gain time and international legitimacy." According to Channel 13, the Minister of Strategic Affairs stressed that "from day one we said that humanitarian aid was necessary as part of the fighting strategy, to gain time and international legitimacy," which was rejected by Shasha-Biton, who considered that Dermer's statements indicated the failure of Israeli propaganda to mobilize international public opinion has been in favor of supporting Israel since October 7.	Arabic	https://www.arab48.com/2023/10/30/الوزير-الاستراتيجي-رون-دورمر-يدخل-المساعي-للمساعدة-لغزة-ضمن-الاستراتيجية-القتالية-للاحتلال
38	31/10/2023	Yifat Shasha Biton	Member of the Israeli Knesset (New Hope)	civilian harm	channel 13 quoted Shasha Biton as saying, "If you had fought from the first day on the level of propaganda (Hasbara) with the same determination, that would have given us time and legitimacy in the world. And since the world is demanding that we expand aid, this means that the efforts of the Israeli Hasbara are not proving themselves."	Arabic	https://www.arab48.com/2023/10/30/الوزير-الاستراتيجي-رون-دورمر-يدخل-المساعي-للمساعدة-لغزة-ضمن-الاستراتيجية-القتالية-للاحتلال

39	01/11/2023	Galit Distel Atbaryan	Member of the Israeli Knesset (Likud), former Minister of Information	genocidal intent	"Erase all of Gaza from the face of the earth. That the Gazan monsters will fly to the southern fence & try to enter Egyptian territory or they will die & their death will be evil. Gaza should be erased!" Likud MP and former public diplomacy minister (Hasbara) Galit Distel Atbaryan: ""Hate the enemy. Hate the monsters. Any vestige of internal bickering is a maddeningly stupid waste of energy. Invest this energy in one thing: Erasing all of Gaza from the face of the earth. That the Gazan monsters will fly to the southern fence and try to enter Egyptian territory. Or they will die and their death will be evil. Gaza should be erased."	Hebrew	https://twitter.com/galitdistel/status/1719689095230730656 https://twitter.com/muhammadshehad2/status/1719742662796833156?s=46 https://twitter.com/lowkeyOnline/status/1719748695036506443?s=46
40	02/11/2023	Nissim Vaturi	Deputy Speaker of Knesset (Likud)	forced displacement	"The war will never end if we don't expel them all."	Hebrew	https://twitter.com/nissimv/status/1719961885519347890
41	03/11/2023	Eilon Davidi	Mayor of Sderot - official	dehumanization / genocidal intent	"The mayor of Sderot held a Shabbat reception for the residents: "Destroy the enemies" The municipality of Sderot held a Shabbat reception for its residents at the U Splash Hotel in Eilat, the mayor joined. Eilon Davidi to 'Now 14': "We don't live in Europe or the USA, we live in the State of Israel which is surrounded by enemies and we need to teach them a lesson, destroy them, These are animals, monsters."	Hebrew	https://www.now14.co.il/ראש-עיריית-שדרות-בקבלת-שבט-לחושבים-לה/ה/
42	04/11/2023	Bezalel Smotrich	Minister of Finance	genocidal intent / collective punishment	"I don't see a big difference between Hamas and the Palestinian Authority. The Arabs are the same Arabs."	Hebrew	https://twitter.com/YehudaShaul/status/1723375968381739349 https://twitter.com/BenzionSanders/status/1720899287695929411/photo/1
43	05/11/2023	Amichai Eliyahu	Minister of Heritage	genocidal intent	"One of the options is to drop an atomic bomb on Gaza. I pray & hope for their [hostages] return, but there is also a price in war."	Hebrew	https://twitter.com/YehudaShaul/status/1723375984160772550 https://www.trtworld.com/middle-east/israeli-minister-says-dropping-nuclear-bomb-on-gaza-is-an-option-15694716
44	07/11/2023	Nissim Vaturi	Deputy Speaker of Knesset (Likud)	genocidal intent	In the Parliament, Vaturi: "Destroy Gaza"	Hebrew	https://twitter.com/nissimv/status/1721941208866459937
45	11/11/2023	Avi Dichter	Minister of Agriculture and Rural Development	forced displacement / genocidal intent	"Hamas lost control of the north of the strip, we're doing a Gazan Nakba 2023"	Hebrew	https://twitter.com/haaretz/status/1723410034762358955?s=46&t=4ht-qoRlKbjm1v634ZjRhQ
46	11/11/2023	Gila Gamliel	Minister of Intelligence	forced displacement	Gamliel advocating for a mass relocation of Gazans: "Instead of funneling money to rebuild Gaza or to the failed UNRWA, the international community can assist in the costs of resettlement, helping the people of Gaza build new lives in their new host countries. Gaza has long been thought of as a problem without an answer." while "Israeli communities in the Gaza border area and the South could then return to their homes and communities and live in safety and security."	English	https://www.ipost.com/opinion/article-773713
47	11/11/2023	Avi Dichter	Minister of Agriculture and Rural Development	genocidal intent	When asked about the surrendered civilians carrying white flags and if it is a scenario like the nakba or is it something temporary and they'll be able to return to their homes after the war: "This is Gaza's Nakba 2023"	Hebrew	https://www.youtube.com/watch?v=Uz2DOHU6drk&list=2s
48	12/11/2023	Itamar Ben Gvir	Minister of National Security	forced displacement	"There has to be occupation here. Every time our enemies lost territory, they lost the war. We need to fully rule - this will deter our enemies... I'm not afraid of resuming settlement in Gush Katif" LINK TO SCREENSHOT: https://pbs.twimg.com/media/GCRwYcW8AAVAQ5?format=png&name=900x900	Hebrew	https://twitter.com/YehudaShaul/status/1739641272350962084
49	13/11/2023	Nissim Vaturi	Deputy Speaker of Knesset (Likud)	forced displacement / civilian harm	"[...] open the port of Gaza, put them [Gazans] on ships and ship them to scotland, because a 10 year old [Gazan] boy is a terrorist in 6-7 years" (writer note: yes, he said it again.)	Hebrew	https://twitter.com/radio1045fm/status/1724003411517967583
50	13/11/2023	Danny Dannon and Ram Ben Barak	Member of the Israeli Knesset (Likud and Yesh Atid respectively)	forced displacement	The call for mass population transfer from Gaza has spread into the political center in IL. "The West Should Welcome Gaza Refugees Europe and the U.S. accepted millions who fled earlier wars."	English	https://www.wsj.com/articles/the-west-should-welcome-gaza-refugees-asylum-seekers-hamas-terrorism-displacement-5d2b5890
51	14/11/2023	Bezalel Smotrich	Minister of Finance	ethnic cleansing / displacement	The crime of transfer is created by both physical force and the creation of a coercive environment. "Israeli minister calls for voluntary emigration of Gazans" " Finance Minister Bezalel Smotrich calls the move the 'right humanitarian solution'. Critics call it 'ethnic cleansing'."	English	https://www.reuters.com/world/middle-east/israeli-minister-calls-voluntary-emigration-gazans-2023-11-14/ https://www.aljazeera.com/news/2023/11/14/israeli-minister-supports-voluntary-migration-of-palestinians-in-gaza
52	14/11/2023	Nissim Vaturi	Deputy Speaker of Knesset (Likud)	forced displacement / civilian harm	In a tweet: "A return to Jewish settlement in the northern Gaza Strip is a correct and logical answer to the murderous terrorist attack by Hamas! The settlement will help restore security, and fix the image of Israeli victory in the eyes of our enemy", in the video: 0:12 "even a 10 year old [Gazan] boy is a terrorist in 7 years [...] we didn't ask to kill anyone but the terrorists, and a Jewish settlement is the answer that makes most sense [meaning security wise]"	Hebrew	https://twitter.com/nissimv/status/1724426683959148893
53	14/11/2023	Bezalel Smotrich	Minister of Finance	forced displacement	Minister of Finance Bezalel Smotrich, is welcoming Yesh Atid MK Ram Ben Barak to the camp of IL leaders advocating for mass population transfer from Gaza disguised as a humanitarian option. LINK TO POST SCREENSHOT: https://pbs.twimg.com/media/GCRwQVXMAAGv0X?format=jpg&name=large	Hebrew	https://twitter.com/YehudaShaul/status/1739641259356991949
54	14/11/2023	Nissim Vaturi	Deputy Speaker of Knesset (Likud)	forced displacement / civilian harm	"Gandi was right" [Gandi was the nickname of the former minister of tourism, Rehavam Ze'evi, an advocate of Transfer] "Rabbi Kahana was a great righteous person" (writer note: Rabbi Kahana is a well known ultranationalist leader and a convicted terrorist, known for his hate and racism towards arabs in general and Palestinians in particular. popularized the slogan "a good arab is a dead arab", the term "Kahana was right" refers to that specific saying most of the time, his followers consist of nationalist religious groups like Price tag who were responsible for many terrorist crimes including the burning of the Dawabsh family and organizations like Lehava who oppose "the mixing of Jewish blood with Palestinian blood" and Jewish supremacy in general.). LINKS TO TWEET SCREENSHOTS: https://pbs.twimg.com/media/GCRwXpBwKAjiev?format=jpg&name=large AND https://pbs.twimg.com/media/GCRwYUUXAAfE9?format=png&name=900x900	Hebrew	https://twitter.com/YehudaShaul/status/1739641264448954753

55	14/11/2023	Itamar Ben Gvir	Minister of National Security	torture / civilian harm	"the terrorists receive the most stringent conditions, eight handcuffed terrorists in a dark cell, iron beds, toilets in a hole in the floor and Hatikvah [the IL National Anthem] playing on a loop in the background." SCREENSHOT: https://pbs.twimg.com/media/GCRxKXsAAV_I_?format=jpg&name=medium	Hebrew	https://twitter.com/YehudaShaul/status/1739641295230976065
56	16/11/2023	Moshe Arbel	Interior Minister	collective punishment	"Israel's Minister of Interior has announced that he's initiated a process to revoke residency status from 2 Jerusalem Palestinians (whom he demagogically terms " Hamas terrorist Nazis"). This based on law allowing revocation for "breach of allegiance to the state of Israel."	Hebrew	https://twitter.com/hamokedrights/status/172623993129868297?s=46&t=4ht-gorLkJim1v634ZRhQ_Link_to_announcement_in_Hebrew:_https://pbs.twimg.com/media/F_SbUz1XAAA-4hg?format=png&name=medium
57	16/11/2023	Nissim Vaturi	Deputy Speaker of Knesset (Likud)	forced displacement	"In 1967, we held them by force. This mistake must not be repeated. As a democratic state, we must allow them to go to other countries, far from here. #voluntary_transfer" SCREENSHOT: https://pbs.twimg.com/media/GCRxNxcWcAEcLy_?format=png&name=900x900	Hebrew	https://twitter.com/YehudaShaul/status/1739641297466470741
58	17/11/2023	Nissim Vaturi	Deputy Speaker of the Israeli Parliament (Likud)	collective punishment	"All the preoccupation with whether or not there is internet in Gaza shows that we have learned nothing. We are too humane. Burn Gaza now no less!" https://pbs.twimg.com/media/F_15rvbWEAm7jo?format=png&name=small	Hebrew	https://twitter.com/PeruginiNic/status/1725505148850524171?s=20 https://twitter.com/nissimv/status/1725472420058857891
59	17/11/2023	Shlomo Karhi	Minister of Communications	torture	Israel's Minister of Communications calls on the IDF to cut off the foreskins of Hamas fighters as revenge, as David did with the Philistines in the Tanakh as "revenge". Link to tweet screenshot: https://pbs.twimg.com/media/F_df86FWUAABWny?format=jpg&name=large	Hebrew	https://twitter.com/AsafRoneI/status/1726963426457739488
60	17/11/2023	Nissim Vaturi	Deputy Speaker of Knesset (Likud)	civilian harm / collective punishment	"All this attention to whether there is internet in Gaza or not shows that we learned nothing. We are too humanitarian. We have to burn Gaza now, nothing less" LINK TO TWEET SCREENSHOT: https://pbs.twimg.com/media/GCRwEhbXEAaoQD?format=jpg&name=900x900	Hebrew	https://twitter.com/YehudaShaul/status/1739641252574810484
61	19/11/2023	Bezalel Smotrich	Minister of Finance	genocidal intent	"regarding Eiland's Article: I agree with every word."	Hebrew	https://twitter.com/bezaleism/status/1726198721946480911 Another link: https://twitter.com/I_e_s_whyte/status/1726343295377477970?s=21&t=BjxbqIHk0b9qEchOMInpZg
62	20/11/2023	Nissim Vaturi	Deputy Speaker of Knesset (Likud)	civilian harm / genocide	After tweeting "Burn Gaza no less", Vaturi in a comment to the tweet: "I said burn Gaza, why should we be ashamed? Are there civilians in Gaza? Suddenly they put fuel in the Gaza Strip, they murdered children, why should we put up with something like this? What's left in Gaza? Tunnels, Hamas, and the damned terrorists who hold children captive."	Hebrew	https://twitter.com/radio103fm/status/1726522005824864427
63	20/11/2023	Itamar Ben Gvir	Minister of National Security	genocidal intent	"I want the possibility to behead head after head, head after head of the Nukhba"	Hebrew	https://twitter.com/YehudaShaul/status/1739641250611937632
64	21/11/2023	Shlomo Karhi	Minister of Communications	torture	"Our fighters, who went to war... for revenge for the terrible massacre carried out by the Nazi terrorists... will return to peace with the hostages, only after they have cut off the foreskins of all these accursed." SCREENSHOTS: https://pbs.twimg.com/media/GCRxWnuXAAAG6GD?format=png&name=900x900 AND https://pbs.twimg.com/media/GCRx1qXMAAGW5z?format=png&name=small	Hebrew	https://twitter.com/YehudaShaul/status/1739641301866283343
65	22/11/2023	Limor Son Har-Melech	Member of the Israeli Knesset (Otza Yehudit)	forced displacement	During a confrence for the re-settlement of Gaza on November 22nd: "There is no other way than to control the whole of Gaza, Full control that will include full flourishing settlement in all of the strip. Not like the Gush Katif settlements that focused on small areas - but settlements in all of the strip - width and length."	Hebrew	https://twitter.com/AlonLeeGreen/status/1727608233882161539
66	24/11/2023	Nissim Vaturi	Deputy Speaker of Knesset (Likud)	civilian harm	In a tweet posted on november 24, the deputy speaker of the parliament tweets: "you need to change discs, Elor was right" meaning public opinion on Azaria should change as he was right to do what he did. (writer note: Elor Azaria a soldier convicted of manslaughter and later released following his murder of a Palestinian youth that he neutralized and later dilebratly shot in head post-neutralization - execution style. read: https://www.btselem.org/video/20160324_soldier_executes_palestinian_attacker_in_hebron) https://pbs.twimg.com/media/F_sn9wdXWAeSHG?format=jpg&name=medium	Hebrew	https://twitter.com/nissimv/status/1728018826803961903
67	25/11/2023	Tally Gotliv	Member of the Israeli Knesset (Likud)	genocidal intent/ civilian harm/ collective punishment	"At this very moment, aid trucks continue to enter the Gaza Strip! enough! How long will we bow our heads and endure the shame? That's not how you defeat terrorism. stop everything immediately bring back a total blockade. Return instructions to open fire in the north of the Gaza Strip against all incoming Gazans. Let the soldiers and commanders win. Thanks to them and thanks to their courage and understanding of the necessity of fighting we will win"	Hebrew	https://twitter.com/TallyGotliv/status/1728483772859822372
68	26/11/2023	Nissim Vaturi	Deputy Speaker of Knesset (Likud)	genocide / civilian harm / destruction	In an interview to the Knesset channel, "We speak intelligently, like Eastern Europe, like nice Europeans with ties" - MK Nissim Vaturi on changing the approach to the war in Gaza: "We have to be really aggressive": [...] we need to say "Burn Gaza" to encourage ourselves with what we're doing" [1:25] [the presenter]: "saying burn all of gaza is an irresponsible saying as long as our kidnapped are there" [1:55]	Hebrew	https://twitter.com/KnessetT/status/1728763548162023455
69	27/11/2023	Tally Gotliv	Member of the Israeli Knesset (Likud)	civilian harm / collective punishment	The Israeli member of the Knesset from the Likud party (Netanyahu's party) Tali Gotlieb calls for the blockade of the Palestinians in Gaza and the cutting off of water, food and fuel and says that they must be dealt with forcefully and that they must know that we will destroy them	Hebrew	https://www.instagram.com/reel/COkllIG-I5/?igshid=ZWl2YzEzYmMxYg%3D%3D
70	30/11/2023	Avigdor Lieberman	Member of the Israeli Knesset (Yisrael Beiteinu), Former Minister of Finance, and Deputy Prime Minister	collective punishment	"There are no innocent people in the Gaza Strip."	English	https://x.com/AvigdorLieberman/status/1730297081959530685?s=20
71	03/01/2024	Moshe Saad	Member of the Israeli Knesset (Likud)	genocidal intent / civilian harm	"In an interview on pro-Netanyahu Channel 14, Saada said that even "in the kibbutzim they say, 'destroy them.' My friends at the prosecutor's office, who fought with me on political matters, in debates, tell me, 'Moshe, it is clear that all the Gazans need to be destroyed,' and these are statements I have never heard." This proves, he said, that the right-wing was correct just as it was on the Palestinian issue."	English	https://archive.is/j2aG8
72	Nov. 10	Itamar Ben Gvir	Minister of National Security	genocidal intent / collective punishment	"Let it be clear, when they say that Hamas has to be eliminated, it also means those who celebrate, those who support, and those who give away candy, all of these are terrorists. And they also need to be eliminated!" LINK TP SCREENSHOT: https://pbs.twimg.com/media/GCRwWCX0AAQKJ?format=png&name=900x900	Hebrew	https://twitter.com/YehudaShaul/status/1739641277983908158

Database of Israeli Incitement to Genocide
15th January 2024
ARMED FORCES

The information within this database is compiled from publicly available sources. While translations are included for heightened accessibility, their fidelity to the original text may not always be precise. Law for Palestine bears no responsibility for the accuracy or completeness of the information provided. The organization apprehensively acknowledges that the statements documented in the database may collectively amount to potential evidence of a breach of the Genocide Convention. The ultimate adjudication of this matter is contingent upon the determination of a competent court.

No.	Date	Author	Position	Topic	Quote	Original language	Link
1	09/10/2023	Yaron Finkelman	Major general commander of the Southern Command of the IDF	civilian harm	"[...] we have no intent to stop, they're taking major blows, we've just started [...] I emphasize again: we have only just started."	Hebrew	The patriots on channel 14 episode posted October 9 2023 [5:30] minutes aprox https://www.youtube.com/playlist?list=PL8E54R76rowCcOn_HQf36o1RF3_oD3z4
2	14/10/2023	Ezra Yachin	Reservist - IDF	civilian harm / collective punishment	inciting "every Jew with a weapon" to kill Palestinians and "erase the memory of them".	Hebrew (translated to English)	https://www.instagram.com/reel/CyWx0_mlu2H/?igshid=MzRIODBiNWFIZa%3D%3D
3	20/10/2023	Amir Weitman	Misgav Institute for Zionist Strategy and National Security	forced displacement	Position paper: A plan for resettlement and final rehabilitation in Egypt of the entire population of Gaza: economic aspects: Main points: • There is currently a unique and rare opportunity to evacuate the entire Gaza Strip in coordination with the Egyptian government. An immediate, realistic and sustainable plan for the resettlement and humanitarian rehabilitation of the entire Arab population in the Gaza Strip is required which aligns well with the economic and geopolitical interests of Israel, Egypt, the USA and Saudi Arabia. • In 2017, it was reported that there are about 10 million vacant housing units in Egypt, of which about half are built and half are under construction. For example, in the two largest satellite cities of Cairo, "The 6th of October" and "The 10th of Ramadan", there is a huge amount of built and empty apartments owned by the government and privately and construction areas sufficient to house about 6 million residents. • The average cost of a 3-room apartment with an area of 95 square meters for an average Gazan family consisting of 5.14 people in one of the two cities indicated above is about \$19,000. Taking into account the currently known size of the entire population living in the Gaza Strip, which ranges from about 1.4 For approximately 2.2 million people, it can be estimated that the total amount that will be required to be transferred to Egypt to finance the project will be on the order of 5 to 8 billion dollars. • Throwing an immediate stimulus at such a height to the Egyptian economy will provide a tremendous and immediate benefit to al-Sisi's regime. These sums of money, in relation to the Israeli economy, are minimal. Investing a few billion dollars (even if it is 20 or 30 billion dollars) to solve this difficult issue is an innovative, cheap and sustainable solution. • There is no doubt that in order for this plan to come to fruition, many conditions must exist at the same time. Currently, these conditions are met and it is unclear when such an opportunity will arise again, if ever.	Hebrew	https://www.972mag.com/intelligence-ministry-gaza-population-transfer/ https://www.madamasr.com/en/2023/10/25/feature/politics/the-sinai-solution-reimagining-gaza-in-the-post-oslo-period/
4	21/10/2023	IDF		decivilisation	The Israeli military drops new messages over Gaza City: "everyone who hasn't evacuated from northern Gaza to the south might be treated as a member of a terrorist organization." "Your presence in Gaza valley increases your chances of death."	Hebrew	https://twitter.com/m7mdkurd/status/1715764117145784734
5	31/10/2023	Richard Hecht	International IDF spokesperson / Lieutenant colonel	civilian harm / collective punishment	"Here's a [IDF] spokesperson describing bombing a refugee camp to target a single Hamas commander"	Hebrew	https://twitter.com/akshayasays/status/1719420333155909851?s=46
6	01/11/2023	IDF soldiers		forced displacement	IDF Reservists with an Israeli flag, with the text: "Returning home" and the orange color which was the color of the settler's protesting the disengagement from Gaza. https://pbs.twimg.com/media/GBt1OTbaQAA0FOO?format=jpg&name=large	Hebrew	https://twitter.com/YehudaShaul/status/1737112352418656669
7	03/11/2023	Avishai Levy	Lieutenant Colonel and Rabbi of the Northern command	genocidal intent/ collective punishment/ civilian harm	In a published paper entitled "Sodom and Gomorrah", which talks about the fact that in the Bible there is only one incident in which God calls for the destruction of a city, in light of a moral perversion that falls below the threshold of humanity - Sodom and Gomorrah. Lot looks back, she becomes a salt commissioner and the lesson is clear. "As soon as she looked back even for a second and expressed empathy, [she] proved that she was already part of the evil. When there is absolute evil, one must not look back, one must not express empathy. The actions of the oppressors on Black Sabbath [meaning october 7th] are tens of times worse than the actions of Sodom and Gomorrah. The war is not about territory or Economy but a war for the loss of evil from the world and the perpetuation of the absolute good". (link to image: https://static.zman.co.il/www/uploads/2023/11/WhatsApp-Image-2023-11-05-at-11.42.32.jpeg) This speak for itself: Gaza is today's Sodom and the analogy could not be clearer - the city that represents absolute evil must be destroyed. There is no place for empathy, which is only proof of identification with absolute evil. The IDF chose not to comment on the matter.	Hebrew	https://static.zman.co.il/www/uploads/2023/11/WhatsApp-Image-2023-11-05-at-11.42.32.jpeg
8	11/11/2023	IDF soldiers		forced displacement	Soldiers in Gaza with a sign of Neve Dekalim - one of the settlements that was evacuated from Gaza in 2005. https://pbs.twimg.com/media/GBt1VXja0AA1tkD?format=jpg&name=large	Hebrew	https://twitter.com/YehudaShaul/status/1737112361713189292
9	13/11/2023	IDF official twitter		decivilisation	The IDF deleted a tweet in which they called hospitals and ambulances "legitimate military targets."	English	https://twitter.com/censoredmen/status/1724026371511362026?s=21&t=aFnX8cakDpW-3-glmfifjg
10	13/11/2023	confidential memo		civilian harm / collective punishment	According to a confidential memo from the Dutch Defense attaché in Tel Aviv, the Israeli army "intends to deliberately cause massive destruction to infrastructure and civilian centers" in Gaza. This strategy explains the "high number of deaths" among the civilian population. (a pdf regarding this is uploaded to the drive)	Dutch/English	https://twitter.com/kuypersmarieke/status/1724160083959988376?s=46
11	15/11/2023	IDF soldiers		civilian harm / collective punishment	Senior Israeli official admits they knew there were no hostages in al-Shifa. He said the raid was merely a "symbol that there is no place we will not reach" (i.e. nothing is safe in Gaza). No claim of a "Hamas command center". ! (screenshot in tweet: https://pbs.twimg.com/media/F--n4WGbAAAvZ5?format=jpg&name=large + article: https://www.mako.co.il/news-military/6361323ddea5a810/Article-b124ea2e7bfc81027.htm?sCh=31750a2610f26110&pid=173113802)	English	https://twitter.com/muhammadshahad2/status/1724782542304559215?s=46&t=4ht-goRLkBjm1v634ZjRhQ
12	19/12/2023	IDF soldiers		genocidal intent/ civilian harm	IDF company commander tells his subordinates "We did in Beit Hanoun what Simeon & Levy did in Nablus". Says same should be done in all of Gaza. In the Bible, Simeon & Levy Raided Nablus with swords, killed every man, took all women & children as hostages & looted the entire city.	Hebrew	https://twitter.com/ireallyhateyou/status/1737118427196846399?s=21&t=fk6JR8DyJlctMHTdOxk1ug

13	24/12/2023	IDF soldiers		civilian harm / collective punishment	The Israeli army admitted on Thursday that it killed dozens of Palestinians in an air strike on the Maghazi refugee camp in Gaza on Christmas Eve. An army spokesperson told Kan news that the military regretted that the attack, which killed 70 people, had harmed people adjacent to the intended target. "A preliminary investigation revealed that during the attack, additional buildings were damaged adjacent to the targets that were [meant to be] attacked," the spokesperson told Kan. "[This] apparently resulted in harm to those not involved... The IDF regrets the harm to those not involved." Israel has previously bombed the camp, but the attack on Sunday was described as one of the "deadliest" since the start of the conflict in early October. The bombing of the camp started just before midnight on Christmas Eve and continued into Christmas Day. Hamas called the attack "a horrific massacre" and "a new war crime". On Wednesday, the Palestinian Health Ministry said the death toll from Israel's operation had surpassed 21,000, most of them women and children. Herzi Halevi, the head of the Israeli armed forces, said on Tuesday that the hostilities will continue for "many more months". At least 1.9 million Palestinians have been internally displaced since the beginning of the Gaza assault, according to UN estimates. Only limited amounts of aid have been allowed to enter Gaza since the beginning of the war as Israel has imposed a total blockade on the strip, including cutting off water and electricity supplies, causing severe shortages of water, fuel, food, and medicines.	Hebrew (translated to English)	https://www.instagram.com/p/C1a9GncfWZ/?igsh=ZW12YzEzYmMxYg%3D%3D
14	31/12/2023	IDF soldiers		civilian harm	Israeli soldier kidnapped a Palestinian female baby from Gaza. In an interview on Israel's Army Radio, an Israeli soldier shared that Captain Harel Itah, who was killed in Gaza. The soldier recounted an incident where Itah found a crying baby - her family likely killed - in a house in Gaza and took her to 'Israel'. Israel's Army Radio deleted the tweet that mentioned the incident.	Hebrew	https://twitter.com/QudsNen/status/1741902347146494231 https://twitter.com/QudsNen/status/1741902349084287275 https://twitter.com/Sarah_Hassan94/status/1741804905684201914
15	18/11/2023	IDF statement on Israeli news		civilian harm	IDF: "we did not demand to evacuate al shifaa, we answered the request of the hospital's manager to allow citizens to evacuate" the article mentions the IDF did not ask medical staff or patients to evacuate as they invaded parts of the hospital (as well as bombed all around in the days leading to the invasion) as previously claimed by doctors in the hospital, but instead "allowed" some who wanted to evacuate to do so through a "safeway" (which eyewitnesses has also mentioned army snipers shooting at that path) along with "providing medical care" to the hospital - which has been debunked in the evidence sheet as empty boxes with nothing in it, along with testimonies from both Palestinian and foreign doctors denying Israel's claim to a "hamas commander quarter" inside or under the hospital. Evidence made by IDF spokesperson and others has been widely debunked online. (note: update as of 02 January 2024: https://www.washingtonpost.com/world/2023/12/21/al-shifa-hospital-gaza-hamas-israel/?fbclid=PAaA24w7ZrDN4pSptZkTysm54z9xppMhnTZfkMIR26R2rrQwdKtSLIV5Qjzo_aem_AZ40A3MBjQDFu09yu2av6_FVH8ZCx14bAeLqtAx2j9YCqSBd7nw0PjAu2andgZwj8Ds - an investigation by the Washington Post discrediting Israel's claims of a command center at Al Shifa Hospital.)	Hebrew	https://www.vnet.co.il/blogs/gazawar43mor/article/bybqdu4t+
16	18/11/2023	IDF soldiers		inhumane treatment	IDF uses Palestinian bodies for skin bank, snatching bodies from the morgue and the graveyard of Al-Shifa Hospital relocating them to unknown places. This claim has been covered by EuroNews, Anatolian Agency and others. This practice is not a precedent among Israeli soldiers and has been highlighted ever since 2009, as explained in the sources.	English	https://www.instagram.com/p/CzyvvaNNBHo/?img_index=1 https://www.aa.com.tr/en/middle-east/israeli-army-stole-bodies-arrested-patients-in-gaza-al-shifa-hospital-doctor/3064890 https://www.euronews.com/2023/11/27/israel-stealing-organs-from-bodies-in-gaza-alleges-human-right-group
17		IDF soldiers		inhumane treatment	A circulating video shows as stated by the source: the treatment of a Palestinian detainee by Israeli Forces. We can hear the detainee being asked to sing a certain phrase before getting hit in the face multiple times	Hebrew	https://www.instagram.com/reel/Cz4VMzPmnpR/?igshid=MzRIODBiNWFIZA%3D%3D
18		IDF soldiers		forced displacement	In a picture taken from a facebook page called "Going home - Back to Gaza Strip" (https://www.facebook.com/newkatif/?locale=he_IL), soldiers in Gaza are pictured with a sign that says "Gush Katif - We're Back" https://static.zman.co.il/www/uploads/2023/11/395508097_714673177361501_7965504043073462756_n.jpg + https://static.zman.co.il/www/uploads/2023/11/397881031_714673224028163_3311208268306311151_n.jpg	Hebrew	https://www.facebook.com/newkatif/?locale=he_IL + Another link: https://www.zman.co.il/436738/popup/
19		IDF soldiers		forced displacement	In a picture taken from a facebook page called "My Israel" https://www.facebook.com/MyIsrael/?locale=he_IL , soldiers are pictured with signs on tanks that says "Victory = settlement" https://static.zman.co.il/www/uploads/2023/11/397572594_748670683972132_5987281654807898489_n-e1699536332911.jpg	Hebrew	https://www.facebook.com/MyIsrael/?locale=he_IL
20		IDF soldiers		forced displacement	Soldiers celebrating the "conquering" Gaza beach, calling it Gush Katif	Hebrew	https://x.com/faizal_mammar/status/1723787287912165556?s=20
21		IDF soldiers		forced displacement	Israeli occupation soldiers brag about raiding a classroom inside a school in #Gaza and vandalizing schoolchildren's belongings.	Hebrew	https://www.instagram.com/reel/CzvREnitvP3/?igshid=MzRIODBiNWFIZA%3D%3D
22		IDF soldiers		civilian harm/ forced displacement	Singing: "Who doesn't have water and electricity? Gaza!, who's going to live in tents? Gazan! [...] This is the land of Israel we don't want peace with Gaza."	Hebrew	https://www.instagram.com/reel/CzABlDr6HS/?igshid=MzRIODBiNWFIZA%3D%3D
23		IDF soldiers		forced displacement	An IDF Officer inside a Gazan School delivers a "Zionist humanitarian teaching mission in Gaza" that includes the call to return of settlements to Gaza (Gush Katif). "Today, we will learn a new lesson, Gush Katif... we are here"	Hebrew	https://twitter.com/YehudaShaul/status/1737112327860949482
24		IDF soldiers		forced displacement	A soldier in Gaza filmed himself explaining their graffiti on a wall there. "The people of IL... We have 2 options here: either we choose to establish Gush Katif, or we return and find ourselves on 7.10.2030 in exactly the same situation"	Hebrew	https://twitter.com/YehudaShaul/status/1737112330939539816
25		IDF soldiers		inhumane treatment	Many videos of soldiers abusing Palestinian detainees have surfaced on social media. Some are extremely graphic. Here is one of the more moderate ones. "Good morning, whore" The soldier spits and calls the Pal detainee a "sheep f****er" (writer note: many videos surfaced were of Palestinians from the West Bank, but detainee abuse and torture was also of Gazan detainees the IDF took from Gaza, including women and children.	Hebrew	https://twitter.com/YehudaShaul/status/1737112341173637205
26		IDF soldiers		genocidal intent/ collective punishment/ civilian harm	"God Willing, it will hit innocent people" This is the text written on the artillery shell in the image below. https://pbs.twimg.com/media/GBt1SVDaIAAuNDn?format=jpg&name=large	Hebrew	https://twitter.com/YehudaShaul/status/1737112356092866871
27		IDF soldiers		forced displacement	"Gush Katif - We are back" reads a sign held by Israeli soldiers. https://pbs.twimg.com/media/GBt1ab1b0AAnk-W?format=jpg&name=large	Hebrew	https://twitter.com/YehudaShaul/status/1737112369959162141
28		IDF soldiers		inhumane treatment	IDF soldiers abuse Palestinian detainees, telling them to sing "The people of Israel live"	Hebrew	https://twitter.com/YehudaShaul/status/1737112378511335685

29	IDF soldiers		inhumane treatment	<p>Israeli forces drove bulldozers through Sheikh Shaban cemetery in the al-Saha neighborhood in eastern Gaza. Graves were destroyed, and already-buried bodies were exhumed, crushed and mutilated.</p> <p>Al Jazeera journalist Ismail al-Ghoul reported that, "Parts of the dead bodies, including those of children, are clearly visible around the area."</p> <p>Prior to the war, Palestinian families lived in Sheikh Shaban cemetery because of the lack of available housing in the Gaza Strip. Gaza is among the smallest and most densely populated cities in the world.</p> <p>There has been little space, or time, for families to have funerals - or even grieve - during Israel's bombardment. Some hospitals have been forced to bury people before their relatives could identify them because there's not enough space in the morgues to keep them.</p> <p>Scared parents scrawl children's names on their arms and legs in the hopes they will at least be identified after they die.</p> <p>In addition to relentless bombing, Israel has blocked food, water, fuel and electricity in the Gaza Strip. As of publishing, over 20,000 people have been killed. 70% of them are women and children.</p>	English	https://www.instagram.com/p/C1lcMbVPbeu/?igsh=ZWI2YzEzYmMxYg%3D%3D
30	IDF soldiers		civilian harm	<p>Following firing at a taxi vehicle with a white flag in Salah aDin Road in Gaza "The [IDF] was not shown any proof that this is a civilian car and there's no information on who is inside."</p> <p>Then your tank shouldn't have fired on it." https://pbs.twimg.com/media/F9tow0-WAAA4pyQ?format=png&name=large</p>	Hebrew	https://twitter.com/adhaque110/status/1719083448885788922?s=46 AND https://www.msn.com/en-us/news/world/israeli-forces-make-major-advance-toward-gaza-city/ar-AA1j54p8?ocid=socialshare
31	IDF soldiers		disinformation	<p>IDF edits and reuploads "evidence" video from a hospital used to justify its bombardment of it - this time blurring the laptop screen which had a picture of a soldier as a background as well as the charger with QI-148 on it with a charger that is not used in Gaza but only in Israel (second link). IDF spokesperson later stated that "this laptop belonged to a soldier that previously was kidnapped and released", failing to mention why this information wasn't included in the original video, as well as to why they have blurred the screen in the second upload if so, and why the IDF page has deleted this video all together since.</p>	English	https://www.instagram.com/p/CzsKGr2CBH1/?img_index=1

Database of Israeli Incitement to Genocide

15th January 2024

Journalists & Influencers

The information within this database is compiled from publicly available sources. While translations are included for heightened accessibility, their fidelity to the original text may not always be precise. Law for Palestine bears no responsibility for the accuracy or completeness of the information provided. The organization apprehensively acknowledges that the statements documented in the database may collectively amount to potential evidence of a breach of the Genocide Convention. The ultimate adjudication of this matter is contingent upon the determination of a competent court.

No	Date	Author	Position	Topic	Summary/Translation	Original Language	Link
1	07/10/2023	Shimon Riklin	Journalist	genocidal intent / civilian harm	"Gaza should be wiped off the face of the Earth"	Hebrew	https://x.com/YehudaShaul/status/1714301960810049700?s=20
2	07/10/2023	Shimon Riklin	Journalist	genocidal intent / civilian harm	"Why exactly do we have an atomic bomb?"	Hebrew	https://x.com/YehudaShaul/status/1714301968884150316?s=20
3	08/10/2023	Noam Fathi	Journalist	genocidal intent / civilian harm	On the Patriots show on channel 14 episode posted on October 8th 2023, at approximately 3:00 minutes: When we see the images of bombed buildings (in Gaza) and dead bodies, I say who cares? No one cares, it doesn't interest anyone, we need to do more/it [the attack] needs to be way stronger.	Hebrew	https://www.youtube.com/watch?v=NORN4RW0ORs+https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
4	08/10/2023	Erel Segal	Journalist	genocidal intent / civilian harm	On the Patriots show on channel 14 episode posted on October 8th 2023, at approximately 10:00 minutes: [...] we shouldn't only kill Hamas, but finish "all the players".	Hebrew	https://www.youtube.com/watch?v=NORN4RW0ORs+https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
5	08/10/2023	Naveh Dromi	Journalist	genocidal intent / civilian harm	On the Patriots show on channel 14 episode posted on October 8th 2023, at approximately 17:54 minutes: I don't understand the sticking to Hamas, I don't see it as Hamas, I see [those who are responsible] are the Palestinians, it's this entity that all its existence is depended on us. [...]	Hebrew	https://www.youtube.com/watch?v=NORN4RW0ORs+https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
6	08/10/2023	Yotam Zimri	Journalist	genocidal intent / civilian harm	On the Patriots show on channel 14 episode posted on October 8th 2023, at approximately 18:30 minutes: A while ago people said we should burn Huwara [...] and I asked myself what is the difference – you see people from political camps and I've heard many saying we should burn Gaza – today everyone says we should burn Gaza: there is no difference between Huwara and Gaza. [...] our war is not against Hamas but against the Palestinians, and until they understand it's not worth it and they'll pay every single price [...] the first cause is to eliminate Hamas, but every person that comes close to the wall [we should] kill, every person that throws a Molotov [we should] kill.	Hebrew	https://www.youtube.com/watch?v=NORN4RW0ORs+https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
7	08/10/2023	Noam Fathi	Journalist	genocidal intent / civilian harm	On the Patriots show on channel 14 episode posted on October 8th 2023, at approximately 21:00 minutes: [...] if we start eliminating killing them the moment they throw a rock, then the story will end.	Hebrew	https://www.youtube.com/watch?v=NORN4RW0ORs+https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
8	08/10/2023	Yotam Zimri	Journalist	genocidal intent / civilian harm	On the Patriots show on channel 14 episode posted on October 8th 2023, at approximately 21:50 minutes: in Huwara I say when someone throws a rock, he gets a bullet to the head. Aprox 21:50: in my opinion, if someone hands out candy, he should get shot.	Hebrew	https://www.youtube.com/watch?v=NORN4RW0ORs+https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
9	08/10/2023	Ildad Yaniv	Influencer Internet personality	genocidal intent / civilian harm	On the Patriots show on channel 14 episode posted on October 8th 2023: Quoting Giora Eiland "the only way to win is in creating a humanitarian crisis in Gaza [...] we need to dry out the Gazans (deprive the Gazans from water)" Ildad Yaniv: [agrees] we need to protect the settlers in huwara, otherwise Hamas will come to tel aviv.	Hebrew	https://www.youtube.com/watch?v=NORN4RW0ORs+https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
10	08/10/2023	Naveh Dromi	Journalist	genocidal intent / civilian harm	On the Patriots show on channel 14 episode posted on October 8th 2023, at approximately 26:35 minutes: we needed to go through that to realize that the Palestinians are an unnecessary group? That what they need is a Nakba 2?	Hebrew	https://www.youtube.com/watch?v=NORN4RW0ORs+https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
11	08/10/2023	Yotam Zimri	Journalist	genocidal intent / civilian harm	On the Patriots show on channel 14 episode posted on October 8th 2023, at approximately 34:25 minutes: As a response to Katz' tweet regarding cutting power and fuel from Gaza – Zimiri: we should have done this a long time ago.	Hebrew	https://www.youtube.com/watch?v=NORN4RW0ORs+https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
12	10/10/2023	Yinon Magal	Journalist	civilian harm	On The Patriots show on channel 14 episode posted on October 10th 2023, at approximately 3:52 minutes: "I always remember the word if Dado [David Elazar COS of the IDF during Yom Kippur war]: we have suffered a big blow, now we'll beat them up/tear them apart [...] we're stronger [than them] and we'll win."	Hebrew	https://www.youtube.com/watch?v=APHuyvcxoEM&list=PLFg1fZkWalgnZQivjvKGYsbGGHBzmxl8&index=404+https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)

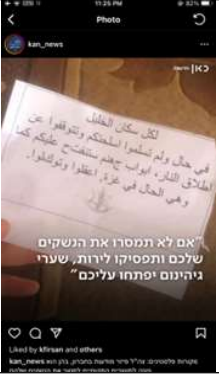
13	10/10/2023	Ildad Yaniv	Influencer Internet personality	civilian harm	On The Patriots show on channel 14 episode posted on October 10th 2023, at approximately 6:27 minutes: Echoes above statement by Magal, adding: "Like he [David Elazar] said: now we start breaking bones."	Hebrew	https://www.youtube.com/watch?v=APHuyycoEM&list=PLFg1fZkWalgnZQivJvKGYsbGGHBzmxL8&index=404 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
14	11/10/2023	Naveh Dromi	Journalist	genocidal intent / collective punishment	On The Patriots show on channel 14 episode posted on October 11th 2023, at approximately 8:25 minutes: Go for [all of] Gaza, why settle for [destroying only] Hamas?	Hebrew	https://www.youtube.com/watch?v=XusHWx3BFEA&list=PLFg1fZkWalgnZQivJvKGYsbGGHBzmxL8&index=405 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
15	11/10/2023	Yinon Magal	Journalist	genocidal intent / collective punishment	On The Patriots show on channel 14 episode posted on October 11th 2023, at approximately 9:12 minutes: The civilians are not "clean", our revenge is on them, we're coming to charge the price from them (Dromi agrees)	Hebrew	https://www.youtube.com/watch?v=XusHWx3BFEA&list=PLFg1fZkWalgnZQivJvKGYsbGGHBzmxL8&index=405 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
16	11/10/2023	Yinon Magal	Journalist	civilian harm	On The Patriots show on channel 14 episode posted on October 11th 2023, at approximately 44:07 minutes: [as a comment to Feiglin's remarks] I don't see them using "tweezers", I see them destroying Gaza.	Hebrew	https://www.youtube.com/watch?v=XusHWx3BFEA&list=PLFg1fZkWalgnZQivJvKGYsbGGHBzmxL8&index=405 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
17	11/10/2023	Yinon Magal	Journalist	genocidal intent / forced displacement	On The Patriots show on channel 14 episode posted on October 11th 2023, at approximately 52:00 minutes: I agree with Feiglen regarding Gush Katif [...] we need to clean the area and set up settlements [again].	Hebrew	https://www.youtube.com/watch?v=XusHWx3BFEA&list=PLFg1fZkWalgnZQivJvKGYsbGGHBzmxL8&index=405 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
18	11/10/2023	Yotam Zimri	Journalist	collective punishment	On The Patriots show on channel 14 episode posted on October 11th 2023, at approximately 59:55 minutes: No one in Gaza doesn't know someone who has killed [an Israeli] [gesturing the "no innocents civilians in Gaza" notion]	Hebrew	https://www.youtube.com/watch?v=XusHWx3BFEA&list=PLFg1fZkWalgnZQivJvKGYsbGGHBzmxL8&index=405 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
19	11/10/2023	Naveh Dromi	Journalist	torture	On The Patriots show on channel 14 episode posted on October 11th 2023, at approximately 59:55 minutes: Like they stopped with the "knock on the roof" policy, did they stop requesting to allow torture [of captured people to get information from]? is there restriction on torture? To which Amir Avivi replies: we are doing what we need to do [to get information].	Hebrew	https://www.youtube.com/watch?v=XusHWx3BFEA&list=PLFg1fZkWalgnZQivJvKGYsbGGHBzmxL8&index=405 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
20	11/10/2023	Erel Segal	Journalist	torture	On The Patriots show on channel 14 episode posted on October 11th 2023, at approximately 1h: Regarding the above comment: I want to see someone in the supreme court [dare to] try and stop it [regarding tortre with no limitations]	Hebrew	https://www.youtube.com/watch?v=XusHWx3BFEA&list=PLFg1fZkWalgnZQivJvKGYsbGGHBzmxL8&index=405 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
21	11/10/2023	Yotam Zimri	Journalist	forced displacement	On The Patriots show on channel 14 episode posted on October 11th 2023, at approximately 1h 3 minutes: If you don't take families of terrorists and move them from their home and treat them as if they have murdered 1300 people, it will happen again [referring to families of Palestinians also on the West Bank and 48' areas]	Hebrew	https://www.youtube.com/watch?v=XusHWx3BFEA&list=PLFg1fZkWalgnZQivJvKGYsbGGHBzmxL8&index=405 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
22	11/10/2023	Yinon Magal	Journalist	dehumanization	The conception that we can live next to monsters next to our borders is a conception people from left and right [wing] have "sinned" [have possessed]. Dromi as a response: but the public in the right has always said that this was a mistake [...] that oslo was a mistake... [1h6m]	Hebrew	https://www.youtube.com/watch?v=XusHWx3BFEA&list=PLFg1fZkWalgnZQivJvKGYsbGGHBzmxL8&index=405 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
23	11/10/2023	Naveh Dromi	Journalist	dehumanization	On The Patriots show on channel 14 episode posted on October 11th 2023, at approximately 1h 8 minutes: it won't end until people realize Palestinians are one big lie.	Hebrew	https://www.youtube.com/watch?v=XusHWx3BFEA&list=PLFg1fZkWalgnZQivJvKGYsbGGHBzmxL8&index=405 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
24	11/10/2023	Naveh Dromi	Journalist	civilian harm	On The Patriots show on channel 14 episode posted on October 11th 2023, at approximately 81h 12 minutes:[defending hilltop youth - known for attacks on Palestinians in the West Bank including the burning of Mohammad Abu Khdeir and the Burning of the Dawabshe family along with many other murder incidents they have carried out against Palestinians in the West Bank] [the Palestinians in] the West Bank is the same as Hamas, there is no difference, Palestinians in East Jerusalem are the same as Hamas, there is no difference, the conception towards these people needs to change.	Hebrew	https://www.youtube.com/watch?v=XusHWx3BFEA&list=PLFg1fZkWalgnZQivJvKGYsbGGHBzmxL8&index=405 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
25	11/10/2023	Yedidia Meir	Journalist	civilian harm / collective punishment	On The Patriots show on channel 14 episode posted on October 11th 2023, at approximately 1h 35 minutes: People are talking about forgetting morals and flattening Gaza, I say these are the morals [...] this is the moral decision (referring to flatenning Gaza)	Hebrew	https://www.youtube.com/watch?v=XusHWx3BFEA&list=PLFg1fZkWalgnZQivJvKGYsbGGHBzmxL8&index=405 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)

26	11/10/2023	Yotam Zimri	Journalist	civilian harm	On The Patriots show on channel 14 episode posted on October 11th 2023, at approximately 1h 34 minutes: [In a response to Magal mentioning the order by the minister of Education Yoav Kisch for the immediate expulsion of students or professors that "express support to terrorism"] you need to remember that supporting terrorism [...] is also waving the PLO flag on campuses [meaning the Palestinian flag].	Hebrew	https://www.youtube.com/watch?v=XusHwX3BFEA&list=PLFg1fzkWalgnZQivjvKGYsbGGHBzmxL8&index=405 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
27	11/10/2023	Ildad Yaniv	Influencer / Internet personality	civilian harm	On The Patriots show on channel 14 episode posted on October 11th 2023, at approximately 1h 7 minutes: it's obvious that today we would've handled the case of Elor Azaria differently (write note: Elor Azaria a soldier convicted of manslaughter and later released following his murder of a Palestinian youth that he neutralized and later dilebratly shot in head post-neutralization - execution style. read: https://www.btselem.org/video/20160324_soldier_executes_palestinian_attacker_in_hebron)	Hebrew	https://www.youtube.com/watch?v=XusHwX3BFEA&list=PLFg1fzkWalgnZQivjvKGYsbGGHBzmxL8&index=405 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
28	11/10/2023	Ziv Shilon	Former IDF internet personality	dehumanization	On The Patriots show on channel 14 episode posted on October 11th 2023, at approximately 1h 19 minutes: [called "Israel's Hero" by Magal] these animals won't make peace with us [talks about the necessity of attacking lebanon as well]	Hebrew	https://www.youtube.com/watch?v=XusHwX3BFEA&list=PLFg1fzkWalgnZQivjvKGYsbGGHBzmxL8&index=405 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
29	11/10/2023	Ziv Shilon	Former IDF internet personality	genocidal intent / civilian harm	On The Patriots show on channel 14 episode posted on October 11th 2023, at approximately 1h 21 minutes: If I was given a gun I would attack in every single arena, who's going to stop us? [...] we should attack everywhere since we already have troops recruited, financially speaking [...] we have the chance [both financially and internationally - in terms of support] to attack [endlessly] to end this.	Hebrew	https://www.youtube.com/watch?v=XusHwX3BFEA&list=PLFg1fzkWalgnZQivjvKGYsbGGHBzmxL8&index=405 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
30	11/10/2023	Ildad Yaniv	Influencer / Internet personality	dehumanization	On The Patriots show on channel 14 episode posted on October 11th 2023, at approximately 1h 32 minutes: [as a response to MK Ayman Odeh in a speech where he says they see both sides - both victims] Arab ministers in the Knesset should not be able to stand in the Knesset and condemn both sides, if you don't choose a side, we'll choose for you, and you will not be able to be [in the Knesset].	Hebrew	https://www.youtube.com/watch?v=XusHwX3BFEA&list=PLFg1fzkWalgnZQivjvKGYsbGGHBzmxL8&index=405 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
31	11/10/2023	Yotam Zimri	Journalist	forced displacement / civilian harm	On The Patriots show on channel 14 episode posted on October 11th 2023, at approximately 36:20 minutes: [talking about the "Erase Huwara" campaign - after that remark made by Smotrich back in May to erase the Palestinian village in Nablus, and how he and those who supported the campaign were called extremists] [extremism] is not understanding that Huwara is Gaza.	Hebrew	https://www.youtube.com/watch?v=XusHwX3BFEA&list=PLFg1fzkWalgnZQivjvKGYsbGGHBzmxL8&index=405 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the youtube video is posted one day after the original posting on the website)
32	11/10/2023	Daniel Hagari	Journalist	genocidal intent	Idk spokesperson Daniel Hagari on the bombing of Gaza : "thousands of tonnes of munitions" had been dropped and "while balancing accuracy with the scope of damage, right now we're focused on what causes maximum damage".	English	https://www.theguardian.com/world/2023/oct/10/right-now-it-is-one-day-at-a-time-life-on-israels-frontline-with-gaza
33	11/10/2023	Roy Sharon	Journalist	genocidal intent / civilian harm	"I spoke about a million bodies not as a goal, I said that if, in order to finally eliminate the military capabilities of Hamas, including Sinwar and Deif, we need a million bodies, then let there be a million bodies"	Hebrew	https://twitter.com/YehudaShaul/status/1714301990723789201
34	12/10/2023	Arnon Segal	Journalist	forced displacement / annexation	Promoting a plan to reoccupy the Gaza Strip and establish settlements there.	Hebrew	https://twitter.com/yehudashaul/status/1712406815818867089?s=46&t=JaT3Sau_w01LZ8_9xYILA
35	12/10/2023	Tomer Kamerling	Journalist	forced displacement / annexation	"Who's coming to dance in Gaza? Gaza will disappear and I'll dance there the way I have never danced before" - an article compiling israeli leftists call for the continuation of the genocidal intent in gaza, as well as a call for a "nature party" in the new city of Nova, the city Israelis are planning to build in place of Gaza	Hebrew	https://www.mako.co.il/culture-weekend/Article-daab7aabf542b81026.htm
36	12/10/2023	Shimon Riklin	Journalist	forced displacement/ethnic cleansing	Riklin posted on "X", the post roughly translates to: "If we really understand what the war is now; a continuation of the War of Independence. Two important achievements are needed: 1. Area: Canceling the Green Line with Gaza and taking over all the open areas in the Gaza Strip from which there will be no withdrawal in any case. 2.Population:Diluting the population in the Gaza Strip as much as possible by encouraging them to leave in a variety of ways. It depends only on us.	Hebrew	https://x.com/YehudaShaul/status/1714301984050757735?s=20
37	13/10/2023	Yaron London	Journalist	genocidal intent / civilian harm / collective punishment	"flatten Gaza, even if the price is hurting innocents"	Hebrew	https://www.inn.co.il/news/616644
38	13/10/2023	Naveh Dromi	Journalist	genocidal intent / civilian harm	On The Patriots show on channel 14 episode posted on October 13th 2023, at approximately 21:00 minutes: I'm talking to people even from the left [that are saying] at the end of this campaign if Gaza is not erased – we are disappointed [...] people want to see at the end of the war an erased Gaza, there are also those who say to take advantage of this [war] to enter Lebanon.	Hebrew	https://www.youtube.com/watch?v=HfVg-6y1aU&list=PLFg1fzkWalgnZQivjvKGYsbGGHBzmxL8&index=405 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/
39	13/10/2023	Yotam Zimri	Journalist	genocidal intent / civilian harm	On The Patriots show on channel 14 episode posted on October 13th 2023, at approximately 24:00-24:17 minutes: [If we don't destroy Gaza] Israel becomes smaller, and [we need] to destroy Gaza so maybe Hizballah realize they [don't want to mess with us *loosely translated].	Hebrew	https://www.youtube.com/watch?v=HfVg-6y1aU&list=PLFg1fzkWalgnZQivjvKGYsbGGHBzmxL8&index=405 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/

40	16/10/2023	Arnon Segal	Journalist	forced displacement	"It is our duty.. to restore our full control over this part of the land of Israel, the property of our ancestors, and to make it bloom with Jewish settlement"	Hebrew	https://twitter.com/YehudaShaul/status/1723375963575144794
41	16/10/2023	Arnon Segal	Journalist	genocidal intent	"Our leadership is not yet sure that it wants to win. It is our job to make it clear to them that we will not settle for anything less than the destruction of the wicked and the return of the Jews to the Gaza Strip."	Hebrew	https://twitter.com/arnonsegal1/status/1713814644467302719
42	17/10/2023	Shimon Riklin	Journalist	genocidal intent	"Gaza has to be wiped off from the face of the earth"	Hebrew	https://twitter.com/YehudaShaul/status/1714301960810049700
43	17/10/2023	Yinon Magal	Journalist / Politician	genocidal intent	It's time for Nakba 2	Hebrew	https://twitter.com/YehudaShaul/status/1714301962848469011/photo/1
44	17/10/2023	David Mizrahy Verthaim	Editor & Journalist	genocidal intent	"If all the captives are not returned immediately, then turn the Strip into a slaughterhouse. If a hair falls from their head - execute security prisoners. Violate all norms on the way to victory..."	Hebrew	https://twitter.com/YehudaShaul/status/1714301958607999071
45	17/10/2023	Yinon Magal	Journalist & Anchor	genocidal intent / civilian harm / collective punishment	"this [picture of destroyed neighborhood] is how all of Gaza should look, all of Gaza"	Hebrew	https://twitter.com/YehudaShaul/status/1714301975104274772
46	17/10/2023	Shimon Riklin	Journalist	forced displacement	[The war] "needs to be finished with 2 important achievements: Territory: ... taking control of all the open areas in [Gaza] ... Population: thinning out the population in the [Gaza] Strip as much as possible by encouraging them to leave..."	Hebrew	https://twitter.com/YehudaShaul/status/1714301984050757735
47	17/10/2023	Yinon Magal	Journalist & Anchor	genocidal intent	You are confused, we do not need to bring a significant achievement in Gaza - we need to eliminate Gaza. This means that the area needs to be cleaned."	Hebrew	https://twitter.com/YehudaShaul/status/1714301988358283769
48	17/10/2023	David Mizrahy Verthaim	Editor/Journalist	genocidal intent / dehumanization / civilian harm	"One principle that needs to be abandoned today: proportionality. We need a disproportionate response. If all the captives are not returned immediately, then turn the Strip into a slaughterhouse. If a hair falls from their head - execute security prisoners. Violate all norms on the way to victory..."	Hebrew	https://x.com/YehudaShaul/status/1714301958607999071?s=20
49	17/10/2023	Yinon Magal	Journalist	genocidal intent / forced displacement	"It's time for Nakba 2"	Hebrew	https://x.com/YehudaShaul/status/1714301962848469011?s=20
50	17/10/2023	Ofer Hadad	Journalist and TV anchor	civilian harm/ dehumanization	"The world finally understands who the animals we are dealing with are... This allows the IDF to exact a much heavier price from Gaza. Not only from Hamas. Everyone who is celebrating now in Gaza - should cry. It's that simple. In Gaza they are still not begging for their lives. Neither Hamas nor the citizens. Wake up from the shock"	Hebrew	https://x.com/YehudaShaul/status/1714301972973564255?s=20
51	17/10/2023	Yinon Magal	Journalist	genocidal intent / civilian harm	"this [picture of destroyed neighborhood] is how all of Gaza, all of Gaza should look."	Hebrew	https://x.com/YehudaShaul/status/1714301975104274772?s=20
52	17/10/2023	Yinon Magal	Journalist	genocidal intent / forced displacement	"You are confused, we do not need to bring a significant achievement in Gaza - we need to eliminate Gaza. This means that the area needs to be cleaned."	Hebrew	https://x.com/YehudaShaul/status/1714301988358283769?s=20
53	17/10/2023	Roy Sharon	Journalist	genocidal intent/ forced displacement	"I spoke about a million bodies not as a goal, I said that if, in order to finally eliminate the military capabilities of Hamas, including Sinwar and Deif, we need a million bodies, then let there be a million bodies"	Hebrew	https://x.com/YehudaShaul/status/1714301990723789201?s=20
54	20/10/2023	Hanan Amieur	Journalist	forced displacement	"Talking about the military battlefield, one should also stand up in the battlefield of consciousness. The enemy does not care about destroyed buildings and his civilians or fighters killed. It only hurts the enemy to lose land. That is why Israel needs to pass an orderly government decision and inform the world of a policy change: Israel will not initiate a war. But if attacked and forced to fight, Israel will fight with the goal of conquering territory from the enemy, moving the population from it to unconquered territory, immediately officially annexing the occupied territory, destroying it to the core and rebuilding it as the Land of Israel. The enemy knew and everyone knew: from now on Israel will take advantage of the wars that will be imposed on it in order to expand"	Hebrew	https://twitter.com/hananamiur/status/1715231161671111084
55	21/10/2023	Yinon Magal	Journalist	genocidal intent / forced displacement	The Patriots show on channel 14 episode posted on October 21st 2023, at approximately 19:30-19:34 minutes: "Is it correct that they should complete the cleansing of Gaza city, to cleanse Gaza city, at the first place?" (writer note: this was said with a notion of agreement with the statement)	Hebrew	https://www.youtube.com/watch?v=9i6ARrr9bEk+https://www.now14.co.il/techniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/
56	24/10/2023	Yehuda Schelzinger	Political writer/reporter for Israel Hayoum	genocidal intent / civilian harm / dehumanization	There are no innocents in Gaza. There are no ordinary citizens in Gaza. Every adult trained to kill. Every woman is a monster. Every boy aspires to be a martyr Every baby will grow up to be a terrorist. wipe out, kill, destroy, destroy.	Hebrew	https://twitter.com/judash0/status/1716862391273529429
57	26/10/2023	Reuters	Reuters	collective punishment / genocidal intent	Netanyahu says Israel is preparing ground invasion of Gaza We have already killed thousands of terrorists and this is only the beginning."	English	https://www.reuters.com/world/middle-east/netanyahu-says-israel-is-preparing-ground-invasion-gaza-2023-10-25/
58	26/10/2023	Zvi Yehezkeili	Journalist	civilian harm	An Israeli journalist admits that Israel carried out a premeditated attack on the family of Wael Dahdouh (Al-Jazeera correspondent): "Generally we know the target. For example, today there was a target: the family of an Al Jazeera reporter. In general, we know."	Hebrew	https://x.com/ShaykhSulaiman/status/171732747260002651?s=20https://youtu.be/alzw8qoorTU?si=dCvH9Yzu9kvE3kr7

59	29/10/2023	Yinon Magal	Journalist	civilian harm	On the Patriots show on channel 14 episode posted on October 29th 2023, at approximately 11:40 minutes: While talking about KILLING "terrorists" and not neutralizing them -Yinon Migal: [all this talk about] You don't want to be an occupier, you don't want to go to Jabalya [...] you don't want to pick on children, the alternative was that they occupied us"	Hebrew	https://www.youtube.com/watch?v=eo7sGN0gg00&list=PLFg1fZkWalgnZQivJvKGSbbGGHBzmxL8&index=409 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/
60	29/10/2023	Yotam Zimri	Journalist	civilian harm / collective punishment	On the Patriots show on channel 14 episode posted on October 29th 2023, at approximately [1h 7minutes - 1h 10minutes]: In regards to humanitarian aid to Gaza – Water coming from Israel based on US recommendation: 1h 7min mark forward: Yotam Zimri – I don't like it, I don't care about being called better than Hamas	Hebrew	https://www.youtube.com/watch?v=eo7sGN0gg00&list=PLFg1fZkWalgnZQivJvKGSbbGGHBzmxL8&index=409 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/
61	29/10/2023	Ildad Yaniv	Influencer / Internet personality	genocidal intent / civilian harm / collective punishment	On The Patriots show on channel 14 episode posted on October 29th 2023, at approximately 1h 10minutes: In regards to humanitarian aid to Gaza – Water coming from Israel based on US recommendation: this serves us, if we were to kill all million Gazans that moved south it would have ended this "event" but the world would have "fallen on us" [meaning international response] [...] we have an interest that the US would provide with all the weapons we need.	Hebrew	https://www.youtube.com/watch?v=eo7sGN0gg00&list=PLFg1fZkWalgnZQivJvKGSbbGGHBzmxL8&index=409 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/
62	29/10/2023	Yotam Zimri	Journalist	civilian harm	On The Patriots show on channel 14 episode posted on October 29th 2023, at approximately 1h 22minutes: If you don't see two more prisons aren't build – know that the police did not actually take care of those who incite and support terror, let that be your measure (which got him applause from the studios' audience).	Hebrew	https://www.youtube.com/watch?v=eo7sGN0gg00&list=PLFg1fZkWalgnZQivJvKGSbbGGHBzmxL8&index=409 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/
63	31/10/2023	Channel 12	News Channel	genocidal intent / civilian harm	""The target: the city of Gaza in ruins - the result needs to be/to look unconventional, with unconventional tools" - senior political figure	Hebrew	
64	31/10/2023	Arab 48	News Website	civilian harm / forced displacement	"Israel demands that Sisi approve the displacement of Palestinians from Gaza to Egypt" "Through its war on the Gaza Strip, Israel seeks to displace Palestinians from the Strip to Egypt. The Ynet website reported today, Tuesday (Oct 31), that Israel had proposed to Egyptian President Abdel Fattah al-Sisi that in exchange for "absorbing refugees from the Gaza Strip, the World Bank would write off a large financial debt to Egypt."	Arabic	http://tinyurl.com/3umtm3fy
65	01/11/2023	Ildad Yaniv	Influencer Internet personality	genocidal intent	On the Patriots show on channel 14 episode posted on November 1st 2023, at approximately 5:30 minutes: The people (of Israel) decided that we enter Gaza. [Yinon Magal asks Did we have a choice?] Yaniv: We always have a choice. [...] The government acted according to the public's wishes; it finally did what needed to be done. [...] because the campaign against the Palestinians is not only in the south (Gaza) but also the west bank and inside of Israel.	Hebrew	https://www.youtube.com/watch?v=hrZuQPI7Sz4 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/
66	01/11/2023	Itamar Fleischman	Journalist/ TV presenter	genocidal intent/ civilian harm/ collective punishment	On The Patriots show on channel 14 episode posted on November 1st 2023, at approximately 1h 2 minutes: they are not an enemy [...] they are Nazis, it should be shown to the world so we get the legitimacy to give them Dresden and Berlin [...] we need to make Dresden out of Gaza"	Hebrew	https://www.youtube.com/watch?v=hrZuQPI7Sz4 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/
67	01/11/2023	Itamar Fleischman	Journalist/ TV presenter	genocidal intent/ civilian harm/ collective punishment	On The Patriots show on channel 14 episode posted on November 1st 2023, at approximately 1h 7 minutes: if we don't react to these scenes in a TOTAL manner (meaning in Gaza), we don't have the right to exist. [...] the same way we show videos of the holocaust on holocaust memorial day we need to show these videos [...] that's why I don't like the talks of money to the PA and humanitarian aid (to Gaza) [...] we need to tell the world that who dares to do this to Jews, we will obliterate them, no matter what the price is [...] we need to be the people that when this is done to us, we slaughter (those who do this to us) [...] we need to exterminate them. (writer note: the discourse of the discussion is the comparison of the 7th Oct to the holocaust).	Hebrew	https://www.youtube.com/watch?v=hrZuQPI7Sz4 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/

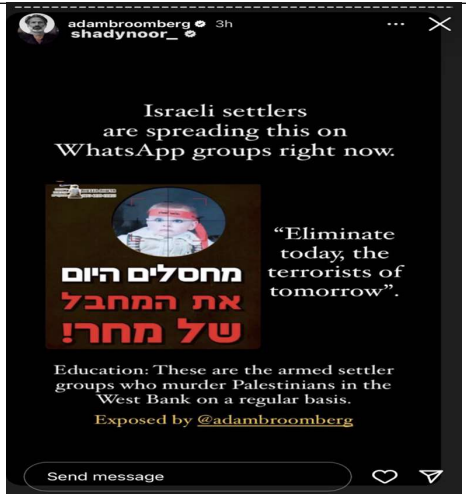
68	01/11/2023	Yotam Zimri	Journalist	genocidal intent/ civilian harm/ collective punishment	On The Patriots show on channel 14 episode posted on November 1st 2023, at approximately 1h 12 minutes: we need to show (the scenes of 7th oct to the world) not as victims, but as (a preparation to) we are going to obliterate. [...] show it not as that who was burned and slaughtered, but as those who are going to burn and slaughter.	Hebrew	https://www.youtube.com/watch?v=hrZuQPI7Sz4+ https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/
69	01/11/2023	Itamar Fleischman	Journalist/ TV presenter	genocidal intent/ civilian harm/ collective punishment	On The Patriots show on channel 14 episode posted on November 1st 2023, at approximately 1h 26 minutes: His story is how we will win[...]. he occupied Rafah in 3 hours [...] and all these questions popped up of why you killed so many people [...] (this is how we should act). (gets support from Yotam Zimri and Yinon Magal and Efi Eitan)	Hebrew	https://www.youtube.com/watch?v=hrZuQPI7Sz4+ https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/
70	05/11/2023	Yinon Magal	Journalist	forced displacement	"We, Eran and Bethel Moshe, joined the Gaza Strip settlement group of the Nachala movement. Our goal is to prepare... settlements in the Gaza Strip & to find families who want to live in the new Gaza settlements.. Want to be our neighbors?"	Hebrew	https://twitter.com/YehudaShaul/status/1723375981748949190
71	09/11/2023	Hallel Biton Rosen	Correspondent for Israel's Channel 14	forced displacement	Israel should "invade Gaza and expel its citizens" there with the intention of building new settlements, which he says would be the "only" way to protect Israeli children.	Hebrew	https://www.instagram.com/reel/Czfnf0tR8/
72	09/11/2023	Shimon Riklin	Journalist	forced displacement	"...they must pay a territorial price. A significant one. Of Beit Hanoun, I would make a high pile of stones. And from the Beit Lahiya I would make a pier in the sea." "...they must pay a territorial price. A significant one. Of Beit Hanoun, I would make a high pile of stones. And from the Beit Lahiya I would make a pier in the sea."	Hebrew	https://twitter.com/YehudaShaul/status/1739641285999198485
73	10/11/2023	Hillel Biton Rosen	Journalist	genocidal intent	"An idea for the Israeli legislator: the October 7 law. All the Nazi Hamas terrorists who carried out the massacre should stand trial without representation, and would be executed within 24 hours on 7.10.24."	Hebrew	https://twitter.com/YehudaShaul/status/1739641283591762014
74	11/11/2023	Channel 14	News website/news channel	genocidal intent / civilian harm	On Channel 14 News website, they count every dead Palestinian man, woman, and child as an "eliminated terrorist"	Hebrew	https://twitter.com/YehudaShaul/status/1723375955643715812
75	11/11/2023	Ishay Friedman	Journalist	civilian harm	"An absolute majority of Gazans...know about Pals who are members of...Hamas & Islamic Jihad... To say that they are "uninvolved" is a false statement detached from reality. Anyone who has information about war criminals in Gaza is involved."	Hebrew	https://twitter.com/YehudaShaul/status/1723375958793609513
76	18/11/2023	Shai Golden	Author Journalist TV personality	civilian harm / collective punishment	"Do your 'Free Palestine,' do all your crying ... We will destroy you!"[...] [imagine] how many of you we're going to kill for each of [those you killed on 7th of october] [...]?" "Israeli Channel 14 host Shai Golden says, adding that Israel is prepared to "fight with the United States and the whole world too."	Hebrew	https://twitter.com/TheCradleMedia/status/1725873721561231443?s=20
77	19/11/2023	Kan News	News channel	genocidal intent / forced displacement	NOW DELETED FROM WEBSITE: Israel's national broadcaster Kan uploaded this song to X in which Israeli children sing in celebration and support for the Israeli army's mass extermination campaign of Palestinians in Gaza.	Hebrew	https://www.instagram.com/reel/Cz13CO6x_kz/
78	21/11/2023	Politico	News Website	civilian harm	The Biden administration has been providing Israel with the location of humanitarian groups in Gaza for weeks to prevent strikes against their facilities. But Israel has continued to hit such sites. The information included GPS coordinates of a number of medical facilities and information on movements of aid groups in Gaza to the Israeli government for at least a month, according to three people familiar with the communications. All were granted anonymity because they feared speaking publicly would make it more difficult for aid groups to operate in Gaza. Still, Israel has launched operations against Hamas in or near aid sites, including hospitals, leading to the destruction of buildings and the blocking of fuel and other critical supplies.	English	https://www.politico.com/news/2023/11/21/u-s-has-sent-israel-data-on-aid-group-locations-to-try-to-prevent-strikes-00128336
79	22/11/2023	Anas Al-Sharif	Gazan Journalist	civilian harm	Palestinian journalist Anas Al-Sharif, who works for Al Jazeera from the northern Gaza Strip, revealed that he received threats from Israeli officers to stop his coverage of the Israeli war on the Strip. This comes after deliberate targeting of Gazan Journalists in the strip resulting in the deaths of over 50 journalists until this day (November 22).	Arabic	http://tinyurl.com/45hmfct5
80	19/12/2023	Zvi Yihezkeili	Journalist	genocidal intent / civilian harm / collective punishment	Israeli journalist, Zvi Yehezkeili, Channel 13's Arab affairs correspondent, says the Israeli army should've killed 100,000 Palestinians early on in the war. Speaking on Channel 13 on Tuesday he said it doesn't matter who is or isn't involved with Hamas and that the Israeli army should've launched a more "fatal" attack on Gaza.	Hebrew	Link 1: https://www.instagram.com/reel/C1EDF10tslk/?igshid=ZW12YzEzYmMYg%3D%3D Link 2: https://twitter.com/nimersultany/status/173717308876267091?s=21&t=qfaJJZ9SYdExbDJ5GhBrA

81	24/10/23	Amit Segal	Journalist	genocidal intent	"Don't forget for a second what Amalek did. Eradicate/ erase this evil - eradicate this evil from the face of the earth, not a centimeter less than this"	Hebrew	https://www.hidabroot.org/article/1187582
82	30/10/2023	Kan News	News Channel	civilian harm/ collective punishment	IDF distributes notes in Hebron: "In case you don't surrender your weapons and stop the fire, hell's gates will open upon you as it did in gaza."	Hebrew	
83	No date	Channel 14	News channel and website	genocidal intent / civilian harm	Israeli news Channel 14 displaying all Palestinian deaths in Gaza as "terrorists eliminated" on front page also offering "videos of the bombings of Gaza and pictures of the destruction in Gaza" titled "Gaza is on fire" (the page is updated daily to describe the number of Gazans killed, buildings destroyed, number of attacks, and injured Palestinians)	Hebrew	https://special.now14.co.il/israel-wins/

Database of Israeli Incitement to Genocide
15th January 2024
Public Expressions

The information within this database is compiled from publicly available sources. While translations are included for heightened accessibility, their fidelity to the original text may not always be precise. Law for Palestine bears no responsibility for the accuracy or completeness of the information provided. The organization apprehensively acknowledges that the statements documented in the database may collectively amount to potential evidence of a breach of the Genocide Convention. The ultimate adjudication of this matter is contingent upon the determination of a competent court.

No	Date	Author	Position	Topic	Summary/Translation	Original Language	Link
1	10/10/2023	Australian Jewish Association	organization	genocidal intent	In a tweet: "Pure evil must be eradicated from this earth. Flatten it."	English	https://twitter.com/AustralianJA/status/1711684217632116899
2	11/10/2023	Beyadenu Returning to the Temple Mount	NGO	collective punishment	The Beyadenu Temple Mount Movement: "In order to defeat Hamas, it's imperative to ban access to the Temple Mount for Muslims until the last of the hostages will be returned to Israel".	Hebrew	https://twitter.com/danielseidemann/status/1712161208978010369?s=46&t=JaT3Sau_w01LZ8_9xYILA
3	11/10/2023	Arieh King	Mayor of Jerusalem - official	genocidal intent	5 days have passed since Muslims carried out the greatest massacre.. of the Jews, on the land of IL.. yet @netanyahu refuses to.. wipe out the cities of terror from which those who massacred our brothers came out."	Hebrew	https://twitter.com/YehudaShaul/status/1723375973016457693
4	12/10/2023	Shon Weisman	Israeli footballer	genocidal intent / civilian harm / collective punishment	likes tweets such as "Can someone give me one logical reason why we don't drop 200 ton bombs on Gaza", "There are no innocents, you don't need to warn them before you bomb, just wipe out Gaza", "The children of Gaza in 2014 became murderers in 2023" and "enough with the values, the mercy or humanity that needs to be shown towards them is over". - fans of Granada Spanish football team call for his release from the team	Hebrew	https://sports.walla.co.il/item/3615455
5	12/10/2023	Doron Ben-David	Actor	genocide / dehumanization	"Gaza must be erased!!! Erased!!! Including everything, without leaving a spec of dust from the place from which humanoid animals such as these people are coming out. Period."	Hebrew	https://twitter.com/gilmishali/status/1710653974397780392?s=46&t=JaT3Sau_w01LZ8_9xYILA
6	13/10/2023	Settlers	Settlers	genocidal intent/ civilian harm	"Gaza is a cemeraty" - settlers calling for genocide	Hebrew	https://www.instagram.com/reel/CyWCrBkv21/?igshid=MzRIODBiNWFIzA%3D%3D
7	13/10/2023	Israeli citizens	Israeli citizens	genocidal intent	In the biggest street in Tel Aviv, Israelis hung up signs that say "victory looks like 0 people in Gaza," and "Genocide Gaza."	Arabic	https://x.com/hiba_natour/status/1712811211639623817?s=20
8	14/10/2023	Tzipi Navon	Sara Netanyahu's Advisor	Torture	An adviser to the wife of Israeli Prime Minister Benjamin Netanyahu posted a violent rant on social media in which she fantasised about torturing to death residents of Gaza she said were involved in last weekend's killings in southern Israel.	English	https://www.middleeasteye.net/news/israel-palestine-war-sara-netanyahu-advisor-torture-gazans-rant?utm_campaign=later-linkinbio-middleeasteye&utm_content=later-38517353 https://www.ynet.co.il/news/article/rjscwxbt&utm_medium=social&utm_source=linkin.bio
9	15/10/2023	Israeli settlers	Israeli settlers	civilian harm	Settlers circulated a message threatening to kill Palestinians if they hold a funeral for martyr Karam Dweikat, who was killed by the IOF. In the message, settlers cited that they killed 2 Palestinians during a funeral of 4 martyrs and repeated it would happen again if a funeral was held for Karam.	Hebrew	https://twitter.com/aseelalbajeh/status/1713554524751733178?s=46&t=JaT3Sau_w01LZ8_9xYILA

10	16/10/2023	Hilltop Israeli settlers	extreme wing of youth settlers in Israel	civilian harm	In a whatsapp group, settlers circulated a photo of a baby with a target mark captioned "Eliminate today the terrorists of tomorrow."	Hebrew (Translated to English by poster)	
11	17/10/2023	Arieh King	Mayor of Jerusalem - official	genocidal intent	If the PM @netanyahu cared, or his ministers from the State of IL cared, there would have been 150K dead already in the Gaza Strip & not a single building in the Gaza Strip would have been left standing"	Hebrew	https://twitter.com/YehudaShaul/status/1723375953244504193
12	17/10/2023	Eyal Golan	Singer	genocidal intent / civilian harm /	"Erase Gaza, don't leave a single person there."	Hebrew	https://x.com/YehudaShaul/status/1714301992841969877?s=20
13	18/10/2023	Alex Daniel	Entrepreneur	forced displacement	On instagram "@itsalexandaniel" posted a picture captioned: "I present to you the new tourist and vacation city in the South (of Gaza) that is going to be built soon in Israel: Nova."	English	https://www.instagram.com/p/CyiB_7bNmvt/
14	22/10/2023	Israeli Woman	Israeli Woman	dehumanisation	An Israeli woman MOCKS the thousands of Palestinian mothers in Gaza whose children were murdered in Israeli airstrikes & whose children are still buried under rubble as BOMBS continue to drop every 15 minutes	Hebrew	https://twitter.com/jacksonhinkle/status/1715837494967800060?s=46&t=JaT3Sau_w01LZ8_9xYILA
15	22/10/2023	Eliyahu Yossian	Researcher	collective punishment	"On the first night we had to take down 50,000 Gazans, blood revenge. Cabinet discussions later, humanitarian later, prisoners and missing persons later. The first check - blood revenge. This is what Ben Gurion knew."	Hebrew	https://twitter.com/TOVnews1/status/1716092045012381790
16	23/10/2023	Ynet	Israeli citizens	collective punishment	Worshippers in a Chabad synagogue claimed that Arab students threw eggs at them and "played music at a high volume". On Saturday, hundreds of Jews arrived at the Netanya College dormitories - shouting "Death to Arabs" and complained about the building, from which the eggs were thrown, and after hours the Arabs were rescued. The college: "2 eggs were thrown, the other claims were dismissed." "Stand Together" movement: "Right-wing activists tried to carry out a lynching under the auspices of the war" (ANOTHER LINK: https://www.instagram.com/reel/Cy9l6Mr41E/?igshid=MzRIODBINWFIZA%3D%3D + https://twitter.com/AlonLeeGreen/status/1718347927108677943 + https://www.instagram.com/reel/Cy9Onm5rQtK/?igshid=MzRIODBINWFIZA%3D%3D + https://www.instagram.com/reel/Cy9DUEDNc8a/?igshid=MzRIODBINWFIZA%3D%3D)	Hebrew	https://www.ynet.co.il/news/article/bj7jwvofp?utm_source=y-net.app.ios&utm_term=bj7jwvofp&utm_campaign=general_share&utm_medium=social&utm_content=Header
17	24/10/2023	Hanan Ben Ari	Singer	forced displacement	"The renowned Israeli singer Hanan Ben Ari performed at an Israeli military base near the Gaza envelope, singing "We are returning to Gush Katif."Gush Katif was an Israeli settlement situated in the heart of the Gaza Strip 18 years ago."	Hebrew	https://twitter.com/ytirawi/status/1716858424024006668?s=46&t=JaT3Sau_w01LZ8_9xYILA
18	25/10/2023	Tzipi Navon	Office manager for PM's Wife	Torture intent	"I imagine the IDF catching all the terrorists & the residents of Gaza who took part in the massacre... & on live broadcast... smears them well with pig fat & begins torturing them."	Hebrew	https://twitter.com/YehudaShaul/status/1717219184499732724

19	25/10/2023	Eliyahu Yossian	Researcher	genocidal intent / civilian harm / collective punishment	"On the first night, we should have taken down 50,000 Gazans, as a vendetta. Cabinet discussions later, humanitarian later, prisoners and missing persons later. The first check - vendetta. This is what Ben Gurion knew."	Hebrew	https://twitter.com/YehudaShaul/status/1717219211540390059
20	25/10/2023	Betzalmo	Right wing NGO	collective punishment / genocidal intent	"According to Betzalmo, a right wing NGO, the IDF ethical code should include these values: ""Enemies are eliminated and not neutralized A population that supports terrorism is an enemy I will pursue my enemies and overtake them and I will not return until they are destroyed""	Hebrew	https://twitter.com/YehudaShaul/status/1717219214145040617
21	26/10/2023	Israeli settlers	settlers	genocidal intent/ forced displacement/ civilian harm	Settlers threatened Palestinians in the West Bank of a second Nakba to take place. Flyers were left for citizens in Arabic and English (see link for text on flyers)	Hebrew	https://www.instagram.com/p/Cy3n5xxgFwn/?igshid=MzRIODBiNWFIzA%3D%3D
22	29/10/2023	Eliyahu Yossian	Researcher	genocidal intent / civilian harm / collective punishment /	On The Patriots show on channel 14 episode posted on October 29th 2023, at approximately 1h 30minutes: The enemy is not Hamas, it's Gaza, The enemy is not Fatah, it's the arabs in the West Bank. [we should act as] similar to Chechnya, where Russians bombed and flattened Chechnya until chechnyans realize "it's not worth to think in [Islam] – Ynon Magal then asks: which means we should harm civilians? Yossian then says: There is no innocents in Gaza, when you say civilians - there is no [civilian population], there is 2.5 million terrorists, therefore there is no meaning to "knock on the roof" – the moment the [7th October] happened, in the first 10 hours after we should have eliminated 50,000 50 thousand Gazans, and I said that [in many news interviews], I said that on every possible platform. Ynon: how to kill 50,000 gazans? Yossian: you sent plans in four waves and you flatten [the area], this is called a Iranian/turkish model because we are in the middle east, not in the west. We then wake up the next morning, and we have Hasbara, and then have סגירת חשבון [closure]. [...] We didn't do that because we don't take an account that HAMAS IS NOT THE ENEMY, BUT ALL OF GAZA IS THE ENEMY. Ynon then asked the audience who agrees with the "eliminating 50 thousand Gazans notion – in which all of the audience raised their hands, Ynon Magal says: all the audience agrees and claps for him are heard.	Hebrew	https://www.youtube.com/watch?v=eo7sGN0gg00&list=PLFg1fzkWalgnZQivJvKGY5bbGGHBzmxL8&index=409 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/
23	29/10/2023	Eliyahu Yossian	Researcher	collective punishment / genocidal intent	On The Patriots show on channel 14 episode posted on October 29th 2023, at approximately 1h 40minutes: Gazans cannot be bought – they will use all sources given to strengthen hamas and be a stronger enemy than before (loosely translated)	Hebrew	https://www.youtube.com/watch?v=eo7sGN0gg00&list=PLFg1fzkWalgnZQivJvKGY5bbGGHBzmxL8&index=409 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/
24	29/10/2023	Eliyahu Yossian	Researcher	genocidal intent / civilian harm	On The Patriots show on channel 14 episode posted on October 29th 2023, at approximately 1h 40minutes-: When asked about if there is a way for Israel to win without killing 50 thousand civilians within the first 10 hours in a "middle eastern manner" Yossian: all of people that won wars for israel were Palmakh/Itzel troops of soviets (writer note: terrorist groups by definition – see https://en.wikipedia.org/wiki/Irgun) [...] in a westernized method, you cannot defeat enemies of this sort (again, meaning middle eastern), in order to defeat a brutal enemy, you need to be more brutal than it. This is the middle east, we need fight in a middle eastern way.	Hebrew	https://www.youtube.com/watch?v=eo7sGN0gg00&list=PLFg1fzkWalgnZQivJvKGY5bbGGHBzmxL8&index=409 + https://www.now14.co.il/tochniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/

25	30/10/2023	Rabbis	Religious leaders	civilian harm / genocidal intent / forced displacement	<p>"About 50 Jewish rabbis wrote in a letter to Netanyahu that there is no religious or moral objection to bombing Al-Shifa Hospital and its occupants if "enemies" are hiding inside"</p> <p>Israeli right-wing journalist Amit Segal shared a letter from 45 influential Israeli rabbis (initial list), addressed to "Prime Minister Benjamin Netanyahu May His Light Shine, the heads of state and security apparatus," explicitly affirming the right of the state to bomb the Al-Shifa' hospital in Gaza – the main hospital in the strip. "It is necessary to clarify, that also when the enemy hides behind a "human shield", as with the information about the terrorist headquarters at the Shifa hospital in Gaza – there is no halachic [Jewish religious law] or moral prohibition, nor a legal one, for bombing the enemy after sufficient warning. And if under such action innocent blood will be spilled, the guilt will be solely on the heads of the cruel [Hamas] murderers and their supporters". There are several notable rabbis among the list of signatories who have advocated for the killing of "enemy babies" in the past. Rabbis Yitzhak Shapira and Yosef Elitzur explicitly wrote this in their 2009 book Torat Hamelech (King's Torah), claiming that such babies can often be in the way of killing the enemy and that their killing is therefore permitted. In addition, they wrote their murder is permitted under the justification that these babies "will grow to harm us." One of the authors of Torat Hamelech, Yitzhak Shapira, rabbi of the Od Yosef Hai yeshiva in Yitzhar, is a signatory to yesterday's letter (the yeshiva was notably recipient of Kushner family fund grants until 2011). Two other rabbis on the list of signatories, Dov Lior (first signatory, former rabbi of Kiryat Arba and spiritual mentor of Itamar Ben-Gvir (https://mondoweiss.net/2023/01/itamar-ben-gvir-is-trying-to-make-the-aqsa-compound-a-shared-site/) and Yitzchak Ginzburg (third signatory, affiliated with Chabad movement) have endorsed the King's Torah book.</p>	Hebrew	<p>https://www.instagram.com/p/CzCPOUXLMYx/?igshid=MzRIODBINWFIZA%3D%3D</p> <p>https://mondoweiss.net/2023/10/israeli-rabbis-tell-netanyahu-that-israel-has-a-right-to-bomb-al-shifa-hospital-in-gaza/?utm_content=bufferfcc79&utm_medium=social&utm_source=linkedin&utm_campaign=buffer</p>
26	01/11/2023	Oury Amos Cherki	Rabbi	genocide / civilian harm/forced displacement/ occupying territory	<p>"There is no justification for risking our soldiers, if the goal is to hand over Gaza to the criminals of the Palestinian Authority. The blood of Israeli youth should not be shed, if they do not return to rule the Gaza Strip, if no Jews settle there. We do not sacrifice human life on the altar of eliminating the Hamas leadership, in order to transfer the land of Gaza to the haters of Israel. Only a loss of territory will be considered a loss by our enemies. Only a return to our land will raise our stature. Please recover the leaders of the country, stop wasting the blood of Israeli youth. work for the elimination of Gaza without going into the alleys. Courage and bravery. This is what we must arm ourselves with at this time!"</p>	Hebrew	<p>https://twitter.com/RavOuryCherki/status/1719713406050066491</p>
27	01/11/2023	Irit Linur	Author	genocide/ forced displacement/ occupying territory	<p>On The Patriots show on channel 14 episode posted on November 1st 2023, at approximately 13:30 minutes: [...] How Victory will look like? [...] the occupation of the Gaza strip. [...] I suggest occupying the strip and settle it again with Jews – Gush Katif.</p>	Hebrew	<p>https://www.youtube.com/watch?v=hrZuQP175z4+https://www.now14.co.il/techniot_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/</p>
28	02/11/2023	Diana Buttu	Lawyer	genocidal intent/ civilian harm	<p>"Telegram channels used in the worst possible way." Another Israeli telegram channel named "terrorists from another angle" posting and mocking the death of Gazan civilians who were killed by Israeli strikes, inciting for the death of their death and calling them "nazi terrorists"</p>	Hebrew	<p>https://www.instagram.com/reel/CzKN1fkNa8e/?igshid=MzRIODBINWFIZA%3D%3D</p>
29	09/11/2023	Lior Narkis	Popular Singer	genocidal intent / civilian harm / incitement	<p>Israelis should "walk into Gaza and slaughter them alive, burn them like they burnt a child in the oven. I'm willing to walk in there now."</p>	Hebrew	<p>https://twitter.com/YehudaShaul/status/1739641280462815611</p>
30	12/11/2023	Eliyahu Yossian	Researcher - Bitkhunistim	forced displacement	<p>"Annexing areas C is a must thing... Annexing the northern part of the Gaza Strip is a must... It is important to note that the value of the land is not only biblical but gives us a geopolitical depth and a grip on the territory..." SCREENSHOT: https://pbs.twimg.com/media/GCRxBbFWsAAdnLZ?format=png&name=900x900 AND https://pbs.twimg.com/media/GCRxEE1W0AAm1eR?format=png&name=900x900</p>	Hebrew	<p>https://twitter.com/YehudaShaul/status/1739641288864014667</p>
31	12/11/2023	Hanan Ben Ari	Singer	genocide / civilian harm / general racism / incitement	<p>Hanan Ben Ari, IL pop singer, at a concert in the IDF base of Tzolim, chants for revenge and the return of Gush Katif. The soldiers answer with the famous right wing song calling for revenge: "Avenge but one of my two eyes from Palestine."</p>	Hebrew	<p>Link 1: https://twitter.com/YehudaShaul/status/1737112334034944511 Link2: https://www.youtube.com/watch?v=2TajBxbZrWI</p>
32	14/11/2023	Rabbi Shmuel Eliyah	Rabbi	civilian harm / genocidal intent	<p>Rabbi Shmuel Eliyah, Chief Rabbi of Tzfat reiterates the words of his son Amichai Eliyahu, Heritage Minister, stating: "A nuclear bomb on Gaza is indeed an option! They will not fire me, they wanted my son, but they will not fire me"</p>	Hebrew (Translated to English by news website)	<p>https://www.timesofisrael.com/rabbi-backs-remark-by-his-son-a-far-right-minister-that-nuking-gaza-is-an-option/</p>
33	14/11/2023	Ariel Elharar	PR Consultant for Minister Ben Gvir	civilian harm / torture	<p>"I had such fun today visiting with minister Ben Gvir in the wings of the Nazi Nukhba prisoners and seeing the men, children and elderly, sitting like mice, handcuffed in a small, dark cell with iron beds." SCREENSHOT: https://pbs.twimg.com/media/GCRxHKGXMAAkVoH?format=png&name=small</p>	Hebrew	<p>https://twitter.com/YehudaShaul/status/1739641292777271794</p>

34	17/11/2023	Kobi Perez	Singer	genocidal intent / civilian harm	Kobi Peretz, a popular IL singer, was invited to sing for Golani soldiers. You can see him leading the famous anti-Palestinian chant: "may your village burn, may the Gazans burn".	Hebrew	https://www.youtube.com/watch?v=YQXF-3nTK0M&t=1s
35	17/11/2023	Ariel Zilber	Singer	genocide / civilian harm	Ariel Zilber, pop singer, visited reservists in the north and praised Meir Kahana - founder of the terrorist org. Kach. "Kahana was right Isn't it right that Kahane was right Kahane is right He is also right today and he will be right tomorrow"	Hebrew	https://www.youtube.com/shorts/OrBz6XfD_4?time_continue=8&embeds_referring_euri=https%3A%2F%2Ftwitter.com%2F&source_ve_path=MjM4NTE&feature=emb_title
36	17/11/2023	Kobi Perez	Singer	genocide / civilian harm	Kobi Perez apparently loves the chant "may their village burn." Here he is with the 13th Battalion of the Golani Brigade. Soldier's are dancing with a torah scroll, chanting: "May their village burn, May Gaza be erased Gaza erased"	Hebrew	Link 1: https://www.youtube.com/watch?v=xH2o4c5KZY&t=1s Link 2: https://twitter.com/YehudaShaul/status/1737112323456954730
37	13/12/2023	Danny Neumann	Sports commentator and former football player	genocidal intent / civilian harm / forced displacement	In an interview, on Israeli channel 13, Danny Neumann, a former football player, calls on the complete destruction of Gaza. Neumann categorically labels all the people of Gaza as terrorists, demanding their extermination: "They must be exterminated, all of them must be killed." He further proposes the complete levelling of Gaza to create a new settlements for Israel.	Hebrew	https://www.instagram.com/reel/C1SgNGsokie/?igsh=MWNzdnlwZGJybTRoMQ%3D%3D
38	17/12/2023	David Azoulay	Mayor of Metula - official	genocidal intent / civilian harm	Israel should 'level Gaza and make it look like Auschwitz', says official David Azoulay, head of northern Israeli town, calls for besieged enclave to become a museum that 'should resemble' the extermination camp in Poland. In a radio interview Sunday (December 17th) in which Azoulay said: "The whole Gaza Strip needs to be empty, flattened. Just like in Auschwitz. Let it be a museum for all the world to see what Israel can do. Let no one reside in the Gaza Strip for all the world to see, because October 7 was in a way a second Holocaust."	Hebrew (Translated to English by news websites)	Link 1: https://www.middleeasteye.net/news/israel-palestine-war-level-gaza-make-like-auschwitz-says-official Link 2: https://www.ipost.com/israel-hamas-war/article-778367
39	1.11.2023	IDF Soldier and Sarah Elbaz	IDF soldier and his mother	genocidal intent / civilian harm	"There's no Palestinian nation. No one wants them" An Israeli soldier preparing to fight in Gaza declared, "I think they should have a lot more of the bombing" and other controversial statements during an interview with Euro News. Meanwhile, his mother said that all Palestinians should be killed upon the safe return of Israeli hostages.	English	https://www.instagram.com/reel/CzYGrwpk-r/?igshid=MzRiODBiNWFiZA%3D%3D
40	10.11.2023	Captain Rabbi Amichai Freeman	Rabbi of the training base of the Nahal Brigade	genocidal intent / civilian harm / forced displacement	The Rabbi of the training base of the Nahal Brigade: Stated in a speech to soldiers: "our country, the whole country... including Gaza, Lebanon, the whole promised land... Gush Katif is so small compared to what we will achieve, with God's help" SCREENSHOT: https://pbs.twimg.com/media/GBt1As0aEAs4Rn?format=png&name=900x900 AND https://twitter.com/i/status/1723456612571005410 video	Hebrew	https://twitter.com/YehudaShaul/status/1737112344273293414
41	15/11/2023	New York Times	Newspaper article	genocidal intent	"Calls for Gaza to be "flattened," "erased" or "destroyed" had been mentioned about 18,000 times since Oct. 7 in Hebrew posts on X... The cumulative effect, experts say, has been to normalize public talk of "erasing" the people of Gaza, ethnic cleansing, and the nuclear annihilation of the territory..."	English	Link 1: https://twitter.com/DalrympleWill/status/1724819050658681088?t=lr50JzVXKzIkub9VzQDXg&s=09 Link 2: https://www.nytimes.com/2023/11/15/world/middleeast/israel-gaza-war-rhetoric.html?smid=nytcore-android-share
42	15/11/2023	Lior Narkis	Popular Singer	genocide	"Gaza you black woman, gaza you whore" at an army base concert	Hebrew	https://www.instagram.com/michellesaahene/reel/CzRWL0tyV_/
43	16/11/2023	Yossi Dagan	Head of the Samaria Council and part of a Coalition of Israeli right wing movements - "חומש תחילה" "נחלה" "אמונים" "תורת לחימה" (Homesh Tchila, Nechala, Emonim, Torat Lehima)	forced displacement	Settler leaders are planning a settlement in northern Gaza, Despite Netanyahu's opposition, a coalition of right-wing organizations calls for the return of settlements in Gush Katif. Head of the Samaria Council Yossi Dagan, who is coordinating the activity: "Victory over Hamas will be to take back our land - the north of the Gaza Strip first"	Hebrew	https://www.ynet.co.il/news/article/h1jzcjqt
44	18-19/10/2023	Public opinion Survey in Israel	Public opinion Survey in Israel	civilian harm	"War in Gaza Public Opinion Survey (2) 18-19/10/2023" Survey conducted by the Israeli Democracy institution Key point: •To what extent do you think that Israel should take into consideration the suffering of the civilian Palestinian population in Gaza when planning the next phases of fighting there? 47.5% of Jewish-Israelis said: Not at all 35.9% of Jewish-Israelis said: Not so much •Do you agree or disagree that when undertaking military operations, the IDF should ensure that it is not breaking international laws and rules of war? 33.6% of Jewish Israelis said: Somewhat agree 26.2% of Jewish Israelis said: somewhat disagree 19.4 of Jewish Israelis said: Strongly disagree	English	https://en.idi.org.il/media/21835/war-in-gaza-public-opinion-survey-2-data.pdf
45	19/12/2023	Rabbi David Ben-Porat	Rabbi	genocidal intent / civilian harm / forced displacement	Rabbi David Ben-Porat, from the Yeshiva Elon Moreh, raising the sign: "Gush Katif- We are back" in Gaza. https://pbs.twimg.com/media/GBt1EIsboAASc58?format=jpg&name=large	Hebrew	https://twitter.com/YehudaShaul/status/1737112348731846718
46	23/10/2023	Yaron reuven	Tiktoker and Rabbi	genocidal intent / civilian harm / collective punishment / dehumanisation	You may think you're being merciful to a child, but you're not - you're being vicious to the ultimate victim this child will grow up to kill - erase every memory of "amalek" - meaning men women and children do not have the right to exist.	English	https://www.tiktok.com/@ill.eagle/video/7293196107897818414

47	31/10/2023	Sarah Elbaz	Mother of IDF soldier	civilian harm	"An Israeli mother sends her son to the battlefield, saying, "All Palestinians must be killed and Gaza and its hospitals must be destroyed." Eviatar El-Baz, a conscript doctor who also specializes in bomb disposal, said before going to Gaza that the Israeli army "will make history." "Sarah El-Baz, Eviatar's mother, says during his farewell that she supports "killing everyone" in Gaza, and bombing all sites, including hospitals. "From the Jordan River to the Middle East, this is ours, and we were promised that. There is no Palestinian state. No one wants them, so why us? Because we're good? We finished being good three weeks ago," she said. She added: "The only innocent people in Gaza now are the 229 hostages who were taken. As soon as they return to Israel, we will bomb Al-Shifa Hospital and all the hospitals and all the tunnels and we will kill them all. The time has come. The world knows it. There is no debate about it. We are the center of the world now."	English and Arabic	Link 1: https://nabdapp.com/t/127400579 Link 2: https://www.instagram.com/reel/CzFAOXmMwu/gshid=MzRIODBINWFIZA%3D%3D Link 3: https://www.instagram.com/reel/CzFG42YOYJz/?igshid=MzRIODBINWFIZA%3D%3D Link 4: https://twitter.com/ghadaoueiss/status/1719530220963635396?s=46
48	Unknown	Israeli citizens	Israeli citizens	civilian harm	A chat between Israelis: First user sending picture of rocket captioned "first shell in tank." Two other users then reply "Please pass it onto a family" and "You have excited me"	Hebrew	
49	Unknown	Israeli citizens	Israeli citizens	genocidal intent	In a chat, Israelis are celebrating the bombing of gaza. The first comment says "gazans are reporting that the injured and the dead cannot even make it to the hospital". Someone named עכשוויה replies a comment that translates to "holocaust to gaza now".	Hebrew	

Database of Israeli Incitement to Genocide
27 February 2024
Former Government Officials

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No.	Date	Author	Position	Topic	Quote	Original language	Link
1	08/10/2023	Amir Avivi	Brigadier General (ret.) - Founder and CEO of Israel's Defense and Security Forum	civilian harm/ forced displacement	On The Patriots show on channel 14 episode posted on October 8th 2023, at approximately 1h 14 minutes: to eliminate Hamas, we need to occupy the Gaza Strip and stay there. Yonon Magal: how do you occupy? Avivi: [...] now it won't be like Shujaia (in previous wars) where Benny Gantz said don't use artillery [...] each battalion takes a neighbourhood and you start [shooting], with the help of planes (names other army tools [...]) in the whole of the strip, you need to be in the whole strip. [...] we need to push Gazans preferably to Sinai.	Hebrew	https://www.youtube.com/watch?v=NORN4RWO0r8 https://www.now14.co.il/technioi_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/ (The link to the video is posted one day after the original posting on the website)
2	12/10/2023	Moshe Feiglen	Former Minister	genocidal intent/ civilian harm	On The Patriots show on channel 14 episode posted on October 12th 2023, at approximately 43:10: "how is it possible that [an Israeli] mother and her daughters are walked through the streets of Gaza [referring to hostages] and Gaza is not set on fire on the same day? [when asked what does he mean] Feiglen: I mean DRESDEN. [...] we're still using "tweezers" and [keep talking about] how to not hurt the uninvolved [...] do you really think we're going to go in [Gaza] and look for Hamas with "tweezers"? [tweezers meaning to pluck hamas out	Hebrew	https://www.youtube.com/watch?v=XuHw3BFAA8-list=Pf1Fg1TWajpZQvYkGYSbbGGH8mX8
3	12/10/2023	Moshe Feiglen	Former Minister	forced displacement	On The Patriots show on channel 14 episode posted on October 12th 2023, at approximately 44:10: "If the goal isn't destroying [Gaza], occupying, deportation, and settlement, then we did nothing [...] we need to go back to thinking in Gush Katif and deport them." (writer	Hebrew	https://www.youtube.com/watch?v=XuHw3BFAA8-list=Pf1Fg1TWajpZQvYkGYSbbGGH8mX8
4	12/10/2023	Moshe Feiglen	Former Minister	genocidal intent	On The Patriots show on channel 14 episode posted on October 12th 2023, at approximately 47:10: "In the time that the army is preparing/getting ready for a ground invasion, the airforce [should already be] faltering [Gaza]."	Hebrew	https://www.youtube.com/watch?v=XuHw3BFAA8-list=Pf1Fg1TWajpZQvYkGYSbbGGH8mX8
5	12/10/2023	Moshe Feiglen	Former Minister	forced displacement	On The Patriots show on channel 14 episode posted on October 12th 2023, at approximately 53:00: "Gaza is ours as much as Jerusalem,	Hebrew	https://www.youtube.com/watch?v=XuHw3BFAA8-list=Pf1Fg1TWajpZQvYkGYSbbGGH8mX8
6	12/10/2023	Nafail Bennet	Former Prime Minister	civilian harm	"Are you seriously asking me about Palestinian civilians? Whats wrong with you?"	English	https://twitter.com/nafailbennet/status/1712497344376111345?vid=11345744&context=aw
7	13/10/2023	Ifyah Ron-Tal	the director of the Israel Electric Corporation, former head of the Israel Port Authority and former	genocidal intent/ civilian harm	On The Patriots show on channel 14 episode posted on October 13th 2023, at approximately 25:40-27:20 minutes: "To destroy Hamas is to control Gaza on land [...] if the fight is already aggressive [...] then bottom line - occupy Gaza [...] this is the continuation of Protective Edge (the Israeli aggression on Gaza in 2014) in which they surrounded Gaza city but didn't enter it - the solution is to control Gaza city	Hebrew	https://www.youtube.com/watch?v=UyGzGfGo688-list=Pf1Fg1TWajpZQvYkGYSbbGGH8mX8&index=2
8	13/10/2023	Amir Avivi	Brigadier General (ret.) - Founder and CEO of Israel's Defense and Security Forum	genocidal intent / forced displacement	On The Patriots show on channel 14 episode posted on October 13th 2023, at approximately 23:35 minutes (talking about visiting the troops): "They say if it doesn't end with us on the Gaza beach, surfing the waves - then why bother entering?"	Hebrew	https://www.youtube.com/watch?v=HfVgE-dy1JaU8-list=Pf1Fg1TWajpZQvYkGYSbbGGH8mX8
9	13/10/2023	Amir Avivi	Brigadier General (ret.) - Founder and CEO of Israel's Defense and Security Forum	forced displacement	On The Patriots show on channel 14 episode posted on October 13th 2023, at approximately 32:15 - 32:41 minutes: In the "day-after", after we destroy Hamas completely, the IDF needs the free hand on campaigns at its own in every meter in Gaza, civilian wise - we don't need to talk about, however we must not give Gaza to the Palestinian authorities.	Hebrew	https://www.youtube.com/watch?v=HfVgE-dy1JaU8-list=Pf1Fg1TWajpZQvYkGYSbbGGH8mX8
10	14/10/2023	Gideon Sa'ar	Former Justice Minister	genocidal intent/ forced	Former Justice Minister Gideon Sa'ar stated that the Gaza Strip "must be smaller at the end of the war... Whoever starts a war against	English	https://twitter.com/kenboth/status/171330194436255882?vid=202%20to%20https://forward.com/dst
11	17/10/2023	Moshe Feiglen	Former minister	genocidal intent	"It is not Hamas that should be eliminated. Gaza should be razed and Israel's rule should be restored to the place. This is our country."	Hebrew	https://twitter.com/YehudaShaul/status/1714303999703184288
12	17/10/2023	Omer Barlev	Former Minister of National Security of Israel	collective punishment	Translation of Barlev's post on X: "A complete siege on Gaza. No water, no electricity, no food. As in Beirut 1982. Water to the south of the Gaza Strip - only in exchange for the return of the kidnapped children and women. A broad humanitarian move only in return for the return of all the abductees. You must not give up even if your hand is pressed"	Hebrew	https://twitter.com/omerbarlev/status/171432003328600461
13	19/10/2023	Moshe Feiglen	Former minister	forced displacement	In response to a post saying Scotland is ready to offer sanctuary to Gazan refugees Feiglen replied: "The solution for Gaza is presented to us	Hebrew	https://twitter.com/Imoshefeiglen/status/171482797698028506
14	20/10/2023	Ehud Barak	Former minister of Israel	civilian harm	On al-Shifa hospital "we are determined to destroy it!"	English	https://www.youtube.com/watch?v=68Bw9115
15	21/10/2023	Amir Avivi	Brigadier General (ret.) - Founder and CEO of Israel's Defense and Security Forum	forced displacement	The Patriots show on channel 14 episode posted on October 21st 2023, at approximately 18:37-18:49 minutes: "Most of them [referring to Palestinians in Gaza Strip], 700,000 were evacuated to 'Gush Katif' [...] We are also exerting international pressure and pressure on international media to show that they're being evacuated."	Hebrew	https://www.now14.co.il/technioi_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/
16	21/10/2023	Amir Avivi	Brigadier General (ret.) - Founder and CEO of Israel's Defense and Security Forum	civilian harm/ forced displacement	The Patriots show on channel 14 episode posted on October 21st 2023, at approximately 18:50-18:58 minutes: "And I hope that with the artillery attacks, these 300,000 would fold and leave as well [referring to Gazans forced displaced from the North to the Southern Gaza]	Hebrew	https://www.youtube.com/watch?v=9i6ARrr9Bek https://www.now14.co.il/technioi_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/
17	25/10/2023	Dror Eydar	Former Israeli ambassador to Italy (2019 - 2022)	genocidal intent/ civilian harm	Dror Eydar made an appearance on Stasera Italia on Wednesday and said that Israelis are not interested in "rational Palestinian talks" and that instead there is only one purpose, which is to "destroy Gaza." He also added that after 7 October, every person in the world who	Italian	https://www.instagram.com/reel/Cz4lbnWkV/
18	25/10/2023	Dan Gillerman	Israel's former ambassador to the UN	dehumanisation	In an interview with Sky News on Wednesday, Dan Gillerman calls Palestinians "horrible, inhuman animals".	English	https://www.instagram.com/reel/Cy2i4bKILG7jgshid-MrIODbNWFzA3Dk3D https://www.instagram.com/reel/Cy2yqDMbtp7jgshid-MrIODbNWFzA3Dk3D
19	26/10/2023	Moshe Feiglen	Former minister	genocidal intent	Moshe Feiglen said in an interview with Aljazeera that the only solution is the "complete destruction of Gaza, before invading it... Destruction like Dresden and Hiroshima, without a nuclear weapon."	English	https://www.instagram.com/reel/Cy317qo-cS7jgshid-MrIODbNWFzA3Dk3D
20	27/10/2023	Moshe Feiglen	Former Minister	genocidal intent	Do not leave stone upon stone in Gaza. Gaza needs to turn into Dresden, Yes. Complete incineration. No more hope... Annihilate Gaza Now! Now"	Hebrew	https://twitter.com/YehudaShaul/status/1723375961394000090
21	29/10/2023	Amir Avivi	Brigadier General (ret.) - Founder and CEO of Israel's Defense and Security Forum	civilian harm/ forced displacement	On The Patriots show on channel 14 episode posted on October 29th 2023, at approximately [1h 7min-1h 10min] minutes: In regards to humanitarian aid to Gaza - Water coming from Israel based on US recommendation: [strategically speaking] the civilians in the north [of Gaza] don't have water or food, so if they want to eat they'll have to move south [where we want them], right now it serves our interests	Hebrew	https://www.youtube.com/watch?v=6e7sGNDgeO08-list=Pf1Fg1TWajpZQvYkGYSbbGGH8mX8&index=409 https://www.now14.co.il/technioi_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/
22	29/10/2023	Amir Avivi	Brigadier General (ret.) - Founder and CEO of Israel's Defense and Security Forum	genocidal intent	On The Patriots show on channel 14 episode posted on October 29th 2023, at approximately 27:30 minutes: Brigadier General Amir Avivi, the chairman of Biththonist movement "We are going to occupy Gaza and are going to cleanse it for months"	Hebrew	https://www.youtube.com/watch?v=6e7sGNDgeO08-list=Pf1Fg1TWajpZQvYkGYSbbGGH8mX8&index=409 https://www.now14.co.il/technioi_haarutz/%D7%94%D7%A4%D7%98%D7%A8%D7%99%D7%95%D7%98%D7%99%D7%9D/
23	01/11/2023	Efi Eitan	Former Lieutenant in the IDF	civilian harm	On The Patriots show on channel 14 episode posted on November 1st 2023, at approximately 4:00 minutes: "I think the IDF is acting correctly in Gaza [...] I'm happy with the way they're fighting. [...] What will the whole campaign look like? Will it end in Gaza? We have a campaign in the Sharon region [...] Judea and Samaria (meaning west Bank) is a campaign against Hamas no less than Gaza"	Hebrew	https://www.youtube.com/watch?v=vhZuQP75z4
24	01/11/2023	Efi Eitan	Former Lieutenant in the IDF	genocidal intent/ civilian harm	On The Patriots show on channel 14 episode posted on November 1st 2023, at approximately 44:30 minutes: exactly how it was in Kippur war when it was decided to firstly finish the Syrian army and then deal with the Egyptian one that's how it should be with Gaza and the West bank Yonon Magal: I did not say we shouldn't burn/incite/ignite the situation in the west bank (but that they should war).	Hebrew	https://www.youtube.com/watch?v=vhZuQP75z4
25	12/11/2023	Rami Igra	Former head of intelligence	civilian harm / collective punishment	"There are no non-combatants in the Gaza Strip" The former head of Israeli intelligence, Rami Igra, told CNN there were no non-combatants in Gaza because Hamas won an election in 2006. Speaking to Anderson Cooper, Igra claimed that most of Gaza's population were part of Hamas, but Israel was treating them as regular civilians. More than 13,000 have been killed in Gaza since the start of Israel's assault on the strip, at least 5,500 of them children.	English	https://www.instagram.com/reel/C28AadP3t7jgshid-00bhZWM5NmiwOQ6J0Y3D
26	18/11/2023	Eli Cohen	Foreign Minister	collective punishment	Israel plans to occupy Gaza indefinitely, Foreign Minister Eli Cohen said in an interview on Channel 12. "There will be Israeli security control from the Jordan [river] to the [Mediterranean] sea at all times," Cohen said, alluding to a Palestinian resistance chant that calls for Palestine to be free "from the river to the sea". The foreign minister rejected any notion that the Palestinian	English	https://www.instagram.com/p/C2F2FixCV6m/
27	19/11/2023	Giora Eiland	Former IDF Major General & the former head of IL NSC & special advisor to Yoav Gallant	genocidal intent /civilian harm / dehumanisation	"The "more correct narrative," said Eiland, is that "Israel is not fighting against a terrorist organisation but against the state of Gaza." "The way to win the war faster and at a lower cost for us requires the collapse of systems on the other side and not just the killing of more Hamas fighters," said Eiland.	Hebrew	https://pbs.twimg.com/media/F_TV-CQkAAseI?format=jpg&name=large https://pbs.twimg.com/media/F_TuVjDWAeKf?format=jpg&name=4096x4096
28	19/11/2023	Giora Eiland	Former IDF Major General & the former head of IL NSC & special advisor to Yoav Gallant	genocidal intent	Israeli General Giora Eiland calls for tough measures, stating, "The international community warns of a humanitarian catastrophe in Gaza and of severe epidemics. We must not shy away from it. Severe epidemics in the south of the Strip will hasten victory."	Hebrew	https://twitter.com/TalulaShah/status/1726267178201362438
29	19/11/2023	Giora Eiland	Former IDF Major General & the former head of IL NSC & special advisor to Yoav Gallant	genocidal intent/ civilian harm	"We must create an unprecedented humanitarian disaster in Gaza. The ultimate tool - damage to the water system. Only the mobilization of tens of thousands and the cry of the international community will create the lever for Gaza to be either without Hamas or without humans. We are in an existential war."	Hebrew	https://www.instagram.com/p/C28AadP3t7jgshid-00bhZWM5NmiwOQ6J0Y3D
30	22/11/2023	Ayelet Shaked	Former Minister of Interior	genocidal intent / forced displacement	Shaked in an interview on channel 13: "After we turn Khan Younis into a soccer field...we need to take advantage of the destruction to tell the countries that each of them should take a quota, it can be 20K or 50K. We need all 2 million to leave. That's the solution for Gaza"	Hebrew	https://twitter.com/ayelshaked/status/1727262450331862307&vid=6 https://www.instagram.com/reel/C2-QAIBWep/
31	No date	Giora Eiland	Former IDF Major General & the former head of IL NSC & special advisor to Yoav Gallant	genocidal intent/civilian harm/collective punishment	"Gaza started a war with it. Today...When you are at war with another state you don't feed them, you don't provide them with electricity or gas or water or anything else."	English	https://twitter.com/YehudaShaul/status/1714301971081937253
32	No date	Giora Eiland	Former IDF Major General & the former head of IL NSC & special advisor to Yoav Gallant	civilian harm/ forced displacement	"Should an unprecedented humanitarian catastrophe occur in Gaza, the ultimate tool is to destroy the water system. This goal cannot be achieved by aerial bombardment, and it is questionable whether it is right to risk a long-term ground operation. Therefore, Israel has no choice but to make Gaza an impossible place to live, temporarily or permanently"	Arabic	https://www.instagram.com/p/C2cHNO8v8_7jgshid-MrIODbNWFzA3Dk3D&img_index=5

Database of Israeli Incitement to Genocide
27 February 2024
Incitements since the ICJ Order to Cease Genocidal Acts and Incitement

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No.	Date	Author	Position	Topic	Quote	Original language	Link
1	29/01/2024	Bezael Smotrich	Minister of Finance	civilian harm/ collective punishment	"The only way to ensure our long-term control of the territory is through the establishment of a military government that will control Gaza and supervise the distribution of humanitarian aid"	Hebrew	https://www.inn.co.il/news/627658
2	28/01/2024	Shlomo Karhi	Minister of Communications	forced displacement	"We must establish settlements. We need security forces. We need to settle this land because it's our land." In an interview with Arutz Sheva, Israeli communications minister Shlomo Karhi called for the settlement of all Palestinian land by Israel. Karhi attended a conference in Jerusalem calling for the resettlement of the Gaza Strip, which was attended by thousands, including Itamar Ben Gvir, Bezael Smotrich, and several other ministers from Prime Minister Benjamin Netanyahu's Likud party	Hebrew	https://www.instagram.com/reel/C2v6VGfV5aE/?igsh=MWM0ZD5Y3kz2ducw%3D%3D
3	26/01/2024	Yoav Gallant	Minister of Defense	civilian harm/ collective punishment	"The State of Israel does not need moral preaching to separate terrorism from the civilian population in Gaza" He added: "Whoever is looking for justice, will not find it on the leather chairs in The Hague [...] The IDF and the security agencies will continue to act and dismantle the Hamas regime."	Hebrew	http://tinurl.com/3xddvnb8
4	30/01/2024	Chai Ben Hamo	Israeli soldier and Rabbi of the Beit Rambam congregation in Modi'in	genocidal intent/ civilian harm/ forced displacement	"We killed thousands of Amaleks... Morally every Arab is a suspect object! We are not moral. To be moral is to kill all terrorists after interrogating them... to be moral is to flatten and conquer all parts of Israel."	Hebrew	https://twitter.com/vtirawi/status/1752452789077147808?s=12
5	30/01/2024	Guy Hochman	Israeli comedian	civilian harm	Message to South Africa: Happy Hague, we continue fighting with full force. No humanitarian, no mercy, with balls. Israeli comedian and soldier Hochman Guy sends a message to South Africa on his social media account after the International Court of Justice (ICJ), the Hague-based court, ordered on Friday that Israel take all measures within its power to prevent genocide in Gaza, as well as allow aid to enter the enclave.	Hebrew	https://www.instagram.com/reel/C2uXfpGtsrT/?igsh=cDlqNTFweDh2MmZo
6	30/01/2024	Gilad Erdan	Israel's Representative in the United Nation	civilian harm/ collective punishment	Gilad Erdan says humanitarian aid to Gaza must be stopped Gilad Erdan, Israel's Permanent Representative to the United Nations, called for an immediate end of humanitarian aid to Gaza and a dismantling of UNRWA.	Hebrew	https://www.instagram.com/reel/C2vYvF4NDHC/?igsh=aG9kbWgwajjIMDY4
7	29/01/2024	Daniella Weiss	Former mayor of Kidumem settlement and leader of a Zionist settlement movement	forced displacement/ civilian harm/ collective punishment	"If we don't give them food, they will move..." Israeli settler leader Daniella Weiss predicts the fate of Palestinians in Gaza.	English	https://www.instagram.com/reel/C2sDF-vID50/?igsh=OTAxdzj5dG4wNWxy
8	02/02/2024	Daniella Weiss	Former mayor of Kidumem settlement and leader of a Zionist settlement movement	forced displacement	Settler leader Daniella Weiss sends a message to Biden: "Don't think that we will stop the war in Gaza, and resettling the entire area of Gaza by Jews."	English	https://www.instagram.com/reel/C2xw8DCLF8P/?igsh=dHE2czc0aWFnOXRv
9	01/02/2024	Daniella Weiss	Former mayor of Kidumem settlement and leader of a Zionist settlement movement	forced displacement	Daniella Weiss, a settler leader and former mayor of the Kedumim settlement in the occupied West Bank, said that "no Arab will remain in Gaza" after the war and that those "who want to have a quiet life" should migrate to other countries. She made the comments during an interview with Israeli media channel Relevant	Hebrew	https://www.instagram.com/reel/C22nWaAoYeX/?igsh=bXl4eWMSZmJvd24y
10	10/02/2024	Yinon Magal	Journalist	forced displacement/ collective punishment	Magal, wearing a "total victory" hat notes: Yes we want to take their land, to take over the area and settle down, because that is the only way they will understand, we have to beat them.	Hebrew	https://www.instagram.com/reel/C30P0IIA2Fb/?igsh=MTV6Zm1uYTZoa3Y1MQ%3D%3D
11	30/01/2024	Arieh King	Deputy Mayor of Jerusalem	collective punishment	Regarding the UNRWA agency in Jerusalem: "These are our enemies. Get them out of Jerusalem" [...] "Let's settle this area instead of having an enemy organization that terrorists come out of."	Hebrew	https://www.instagram.com/reel/C27J71Pv5xV/?igsh=MWUvN2FrXV0NHbseg%3D%3D
12	14/02/2024	Bejamin Netanyahu	Prime Minister	civilian harm	With Palestinian death toll reaching 30,000 in Gaza, Netanyahu during a press conference on February 14: "We're close to a total victory, it's a matter of months." (Source: Channel 7 live Updates)	Hebrew	https://youtu.be/S2-lXrsrYqA?si=AW850APycUMKiM-c
13		IDF Soldiers	IDF Soldiers	dehumanisation/ torture	"We want to be slaves of the Azolai family forever and ever." A video circulating online has sparked outrage as it purportedly shows a soldier coercing blindfolded detainees into pledging themselves as slaves. The Palestinian men were forced to praise the family and say that they want "to work for them in sewage and gardening" Some online users have stated that the Azolai family is the soldier's family.	Hebrew	https://www.instagram.com/reel/C2wPeNQKASQ/?igsh=bmNhaTJsd2l1bWc4
14	13/02/2024	Bezael Smotrich	Minister of Finance	civilian harm/ collective punishment	"There is a consensus inside the Israeli cabinet of the need to prevent the aid from reaching Hamas and I will use my authority to make sure this is the case," said Smotrich, who accused UNRWA of being a "central part" of the "Hamas war machine." UNRWA has rejected such accusations in the past."	English	https://www.axios.com/2024/02/13/israel-gaza-flour-shipment
15	2/11/24	Bejamin Netanyahu	Prime Minister	collective punishment	The prime Minister talks about directing the provision of humanitarian aid systematically	English	https://abcnews.go.com/International/netanyahu-this-week-interview/story?id=107130717
16	05/02/2024	IDF Soldier	IDF Soldier	forced displacement	"We were denied to say [Hear, O Israel] in the mosque, therefore, we will annihilate the mosque while calling "Hear, O Israel": Hear, O Israel, the Lord is our God, the Lord is one" (writer note: this is a Jewish prayer)	Hebrew	https://twitter.com/tksshawa/status/1754925169716424714

17	28/01/2024	Limor Son Har-Melech	Member of the Israeli Knesset (Otzma Yehudit - Jewish Power)	civilian harm/ collective punishment/ genocidal intent	Knesset member blocks aid trucks to Gaza: "Today I arrived at the Kerem Shalom crossing to participate in a just protest like no other for the closing of the crossing for trucks transporting food, medicine and more for the residents of Gaza and especially for Hamas. At Otzma Yehudit we demand to be an influential part of the limited war cabinet with the understanding that the system is captive to a wrong conception that must change. It is not possible for the State of Israel to allow aid to the enemy while 136 of our sons and daughters are in the hands of the Nazi oppressor from Hamas. We, in Otzma Yehudit, will continue to fight for the closing of the crossings and the return of the abductees, with the help of God, as soon as possible."	Hebrew	https://twitter.com/limor_sonhmelh/status/1751597625407569991
18	06/02/2024	Itamar Ben Gvir	Minister of National Security	civilian harm/ collective punishment/ genocidal intent	Knesset member blocking aid to Gaza: "123 days I oppose the introduction of any humanitarian aid to the killers from Gaza. Gantz remembered this evening to agree in a weak voice with my position, but with a problematic solution that ignores the fact that in Gaza there are still 136 Israeli hostages held in substandard conditions. It's left for him to align himself with the rest of my firm positions: No for a promiscuous deal and No for stopping the war."	Hebrew	https://twitter.com/itamarbengvir/status/1754923436881674506
19	08/02/2024	IDF Soldier	IDF Soldier	forced displacement	"Soldier 1: Baker, what do you have to say on such a beautiful morning? Soldier 2: Listen, I'll tell you something like this: Heaven is in many places, we are here, we have made this piece of land much more beautiful in our own way for what we want to see, and we continue our good work and we will do many, many more, and then in the end Gaza will look the way we want to see it, and the promises we made to the people of Gaza we will keep them as well, long live the people of Israel!"	Hebrew	https://twitter.com/ytirawi/status/1755699881308455239
20	30/01/2024	Itamar Ben Gvir	Minister of National Security	civilian harm	(Reposting a video of the execution of three Palestinians in a hospital in Jenin, West Bank, where IDF members dressed up as civilians and entered a hospital) "I congratulate and strengthen the Israel Defense Forces for their heroic activity last night in cooperation with the IDF and Shin Bet forces in the Jenin refugee camp, which led to the elimination of three terrorists - let all our enemies know that our forces will operate everywhere and by all means to protect and preserve Citizens of the State of Israel."	Hebrew	https://twitter.com/itamarbengvir/status/175223336272015586
21	07/02/2024	Benjamin Netanyahu	Prime Minister	genocidal intent/ collective punishment	(when asked by a reporter what does "total victory" means when Hamas keeps regenerating even though Israel keeps attacking viciously) Showing intent of mass destruction and no intent of stopping the aggression, PM answers with: "It's like you took a glass cup, and hit it with a hammer, now you have shards, then you hit the shards again and again until you're left with [small] squads or individuals - and that's what we're doing."	Hebrew	https://www.youtube.com/watch?v=-tDapLsrQd4
22	07/02/2024	Benjamin Netanyahu	Prime Minister	genocidal intent/ collective punishment	Netanyahu echoing notions of his "total victory" slogan.	English	https://twitter.com/netanyahu/status/1755339455303418311
23	06/02/2024	Benny Gantz and Gadi Eisenkot	Ministers in the Knesset (Gantz is a member in the war cabinet)	civilian harm/ collective punishment	"Israel's most 'moderate' ministers are openly calling for suspension of all aid to Gaza - instead of their earlier call to reduce the aid to pressure/collapse the Gazan population & Hamas with mass starvation & famine (which would also put the hostages at risk)!"	English	https://twitter.com/muhammadshahad2/status/1754851977031225659
24	28/01/2024	Itamar Ben Gvir	Minister of National Security	forced displacement	Excerpts: 1) "But today everyone already understands that fleeing also brings war and that if we want there to be no more 7.10, we need to return home to control the territory, and also offer a moral and logical solution to the humanitarian problem. Encouraging immigration and a death penalty law for terrorists." 2) "It is also the image of our victory and their understanding that we have been here since and forever." 3) "It's time to encourage immigration and it's time to win!"	Hebrew	https://twitter.com/itamarbengvir/status/1751678765904601363
25	08/02/2024	Itamar Ben Gvir	Minister of National Security	forced displacement/ genocidal intent	Minister of National security encourages forced displacement in an interview to the Knesset channel: "First of all, we need to subdue the enemy and defeat him. First of all, we need to win this war in Gaza and see it through to the end. In Gaza, I also want to encourage voluntary immigration, of course, I think it's a humanitarian solution in the end. [Interviewer]: In the end, you'll end up with many Gazans who will not emigrate voluntarily, what will you do with them? [Ben-Gvir]: I think that if we decide, a large part of them will want to emigrate voluntarily. [Interviewer]: And if not? [Ben-Gvir]: I am sure that if we subdue [Hamas], if we win, but a real victory and not be neither here nor there, but go with this victory till the end, a large part of them will want to emigrate [...]. [Interviewer]: You are actually forcing them, you should say, you package it in some nice wording of "voluntary immigration" but in the end you're expelling them if you're doing so by applying pressure. [Ben-Gvir]: You don't know how many Gazans there are today who say, we want to get out of here, there are some there who are willing to sell a kidney just to get out of there. [Interviewer]: What do you do with those who stay? [Ben-Gvir]: I assume that if we win, most of them will agree to emigrate voluntarily. Now in Judea and Samaria, I'll say it in the simplest way: No more relying on the PA, the same PA of terrorists, haven't we seen what's happening? Didn't we see where this has led us? It's the same old concept, after all 82% of them support the massacre, after all the Authority itself distributes money to those who murdered, there is no such thing, someone who murders a Jew receives money from the Authority, their education system broadcasts murder and massacre, so what? There is no more PA, cancel the PA, no to supporting them, no to strengthening them, they will fall, and we should be the owners of the house in Judea and Samaria."	Hebrew	https://twitter.com/KnessetT/status/1755618456165376295
26	29/01/2024	Itamar Ben Gvir	Minister of National Security	civilian harm	"I sent a letter to Prime Minister Netanyahu demanding that he immediately order the Minister of Defense and the Chief of Staff to allow the IDF forces to shoot anyone who enters the area of the security strip, Anyone who enters there is a son of death!"	Hebrew	https://twitter.com/itamarbengvir/status/1751965248771281277
27	10/02/2024	Itamar Fleischman	Journalist/ TV presenter	genocidal intent/ civilian harm	In an episode of The Patriots show on channel 14 posted on february 10th: "We are not leaving Gaza, you will continue to starve, you will continue to die, your houses will continue to burn, your children will continue to live in mud and Nylon, until the last of the abductees comes back here."	Hebrew	https://twitter.com/ytirawi/status/1756624608633974877?s=20
28	10/02/2024	Yinon Magal	Journalist	forced displacement	In an episode of The Patriots show on channel 14 posted on february 10th: "Yes, we say we want to take their land, take their territory and settle in it because that's the only way they'll understand that we defeated them. They don't care about the houses, they don't care about the dead, they don't care about anything except the land."	Hebrew	https://twitter.com/ytirawi/status/1756624608633974877?s=20

29	10/02/2024	Yaki Adamker	Journalist	genocidal intent/ civilian harm	In an episode of The Patriots show on channel 14 posted on february 10th: "I don't have mercy on these Gazans, I don't think there is anyone in the State of Israel, in the Land of Israel, who should feel sorry for these Gazans. Not for adults, not for the elderly, not for young people, and not for children. As far as I'm concerned, the Gazans can starve to death, what do I care about them, why should we care about the Gazans?"	Hebrew	https://twitter.com/ytirawi/status/1756624608633974877?s=20
30	11/02/2024	Itamar Ben Gvir	Minister of National Security	civilian harm	Minister on National Security calling to shoot any Palestinian, including women or children, that come close to the fence in the North of Gaza: "Obviously, we need to pay attention to incidents of our forces shooting at our forces, but on the other hand, we need clear instructions. There is no way that children and women are approaching the fence. Anyone who comes close to harm security should be shot."	Hebrew	https://www.israelhavom.co.il/news/geopolitics/article/15248717
31	12/02/2024	IDF Soldier	IDF Soldier	genocidal intent/ forced displacement	"So they won't have anywhere to go back to!"	Hebrew	https://x.com/Markusxx79/status/1757134157434474911?s=20
32	12/02/2024	Nissim Vaturi	Deputy Speaker of Knesset (Likud)	genocidal intent/ civilian harm	Deputy speaker of the kenesset says all those killed in Gaza deserved to die, including the thousands of children: "We only deal with terrorists in Gaza, the ones who got shot probably deserved it [...]"	Hebrew	https://twitter.com/Powerfulmindx/status/1757716828653076561?s=20
33	14/02/2024	Rami Igra	Former head of Mossad hostages and MIA unit	genocidal intent/ civilian harm	"[...] There are no non-involved people in Gaza, there is no such thing. In Gaza, everyone is involved, everyone chose Hamas, everyone over the age of 4 is a Hamas supporter."	Hebrew	http://tinyurl.com/4vxt8xhb
34	14/02/2024	Ayala Hasson	Journalist	genocidal intent/ civilian harm	"Every house in Gaza is a Hamas headquarters, weapons, Al Aqsa, everything, all the signs. Nevertheless, as you said, children from the age of 0-4 are not involved, maybe when they grow up they will be, but for now you can't starve them, they are children, there's nothing to do about it."	Hebrew	http://tinyurl.com/4vxt8xhb
36	14/02/2024	IDF	IDF	genocidal intent/ civilian harm	Dozens of Palestinians filmed leaving Nasser Hospital in Khan Younis after Israeli forces order evacuation. Israeli snipers fired on anyone who moved in the area, killing several people, say witnesses.	English	https://twitter.com/AJEnglish/status/1757847331980840986?s=20
38	26/01/2024	Bezael Smotrich	Minister of Finance	genocidal intent/ forced displacement	"This experience claimed too many victims from us, and as a result, Israeli society is united as a whole on the only path to victory and the complete eradication of Hamas, and that is what is important. The Judges in the Hague who care about the situation of the Gazans are invited to call on the countries of the world to open their doors and assist in the reception and rehabilitation of the residents of Gaza."	Hebrew	https://x.com/bezaelsm/status/17508849935286929497?s=20
39	01/02/2024	Settlers/ Israeli citizens	Settlers/ Israeli citizens	dehumanisation	"I am the owner of the house here, you are a slave here".	Hebrew	https://twitter.com/OwenJones84/status/1752998487929565632
40	01/02/2024	Bezael Smotrich	Minister of Finance	forced displacement	"The 'settler violence' campaign is an anti-Semitic lie spread by the enemies of Israel with the aim of discrediting the pioneer settlers and the settlement enterprise and harming them, and through them discrediting the entire State of Israel. This is an anti-moral BDS campaign that turns the victim into the aggressor and permits the blood of the settlers. It is a shame that a government in their hands I cooperate with this in the days when the settlers pay a dear price in blood in the war in Gaza. With the help of God, I will continue to act fearlessly to strengthen and develop Jewish settlement in all parts of the Land of Israel and to strive for sustainable peace, which will only be achieved when the hope of the Arabs to establish an Arab state on the ruins of the Jewish state is dashed If the price is the imposition of American sanctions on me - so be it."	Hebrew	https://twitter.com/bezaelsm/status/1753093349031252194
41	02/02/2024	Moshe Korsia	Israeli conscript artist/soldier	genocidal intent	"What? Gaza still exists? So why are you waking me up? Oh, we erased it? Update me when it's flat"	Hebrew	https://twitter.com/TamkenatM/status/1753530553385816175
42	02/02/2024	IDF Soldier	IDF Soldier	forced displacement	"We're headed to Jerusalem" with a drawing of the Jewish Temple that far right Israeli plan to build on the ruins of the Al-Aqsa mosque in Jerusalem.	Hebrew	https://twitter.com/DrSakriKaia/status/1753527573169274939
43	30/01/2024	Hiya ben Hamo	IDF soldier	genocidal intent/ civilian harm/forced displacement	"I'm leaving Khan Yunis now with mixed feelings, on the one hand I'm very happy. We're not in a period of programming that slaughtered, raped and abused us without response. God willing, we destroyed a huge area for them, we killed tens of thousands of Amalekites in them. On the other hand, we have not yet become a moral army, and this is the real war of the State of Israel. Everything else will work out easily later. It is moral to understand that every Arab is a suspicious object, maybe he is good, maybe he is a bomb, but he is suspicious. It is moral to execute all terrorists after interrogating them. It is moral to conquer and settle all parts of the Land of Israel and any place where we leave any remnants that will take revenge on us sooner or later. This understanding is a lifesaver, we must understand it with our intellect before the enemy explains it to us with blood, God forbid. Good luck to all of us and to all the people of Israel in this great and important campaign."	Hebrew	https://www.tiktok.com/@the_people_of_pai/video/7330787951573536033?r=1&t=8jYpDl0nHk&social_sharing=1
44	31/01/2024	Hiya ben Hamo	IDF soldier	forced displacement	"We are leaving Khan Yunis - congratulations, with God's help only we will leave as normal citizens, that the people of Israel will enter here more and more, not only the army, but rather a settlement, governance, security. Congratulations leaving Gaza"	Hebrew	https://x.com/MiddleEastEve/status/1753108452115661196?t=Whq934nkMm1Ljrf22Dx09Q&s=08
45	29/01/2024	IDF soldier	IDF soldier	genocidal intent/ civilian harm	"We need to start speaking Arabic, without aid, so that they are afraid of occupation, we don't need to be afraid of occupation. No help and nothing. We are now going to block the aid" (writer note: "speaking arabic" is referring to the notion of the likes of Eliyahu Yossian - which basically meant to say that Palestinians or arabs are savages - so they must be treated in an arab manner or namely savagely, hence "speak" arabic to them.)	Hebrew	https://x.com/OudsNen/status/1751982330908942530?t=FXinTbaOp91KwJ3FqVuU7m?s=08
46	04/02/2024	Slogans	Seen on Israeli Buses - Egged company	genocidal intent	"Obliterate the memory of Amalek. Don't forget"	Hebrew	https://twitter.com/TalulaSha/status/1754199155151433737
47	04/02/2024	Ben Sabag	IDF soldier	genocidal intent/ civilian harm	referring to a stray dog searching for food and described it as "the only uninvolved civilian in Gaza"	Hebrew	https://www.instagram.com/middleeasteye/reel/C2-Rnm3lFON/

48	06/02/2024	Ifrah Kfir	IDF soldier	genocidal intent/ civilian harm/ forced displacement	"They do not understand what a disaster they have brought upon themselves, the Nakba is going to be a sweet memory compared to what is coming to them. We are the people of Israel, we are said to be one man with one heart, we are like different organs in the same body, that is why a Jew who was murdered in Bari makes a Jew who lives in California cry and a Jew who lives in Kfar Saba wears a uniform. We are the sons of Abraham, our father who smashed all the idols in his father's house, who recruited 318 Elite warriors to free Lot's from captivity. We are the sons of Joshua who conquered this land from seven different nations. Remember the Canaanites? The Hittites? The defeats? They have all disappeared from the world and the people of Israel are here to stay. We are a people of bravery and dedication for the people and the country. Remember the hero Samson, Yoav ben Zeruah, King David, Abner ben Ner, Bar Kochva, Yosef Trumpeldor, Hana Senesh, Yoni Netanyahu, Avigdor Kahalani and dozens of other heroes who died in the last attack and whose story we will commemorate on the wall of our hearts. We returned to our country after 2000 years of painful exile, survived the Holocaust and built a country from the dust of the victims. The UN divided this country between the two of us, but it was more important for them to hate us than to build a future for themselves. And they tried to fight us once and twice and three times and each time again they lost and each time again we won thanks to faith in god and thanks to the heroism of the soldiers and citizens of Israel. Ismail Hania (May his name be erased), their leader said it most clearly "We love death as the Jews love life" They are not only human animals, they are stupid, they give zero hope to their people, only hatred and blood and hell. They don't understand who they have messed with, they have opened the gates of hell upon themselves and we have only just begun, the female is going to be a sweet memory compared to what is coming to them. Start running because the IDF is on its way!	Hebrew	https://twitter.com/ytirawi/status/1754640691425124386?s=20
49	16/02/2024	Yousef Haddad	Hasbara Activist	collective punishment	"I say why don't we think the other way around, as soon as we create even more pressure on the citizens themselves in Gaza who are already slowly starting to break, let's break them so that they too will rise up on their own. We're almost there."	Hebrew	https://twitter.com/CensoredMen/status/1758270603541307902
50	08/02/2024	Ofer Rosenbaum	Israeli PR figure and founder of the "The Civilian Front" organisation	genocidal intent/ civilian harm	"What is this perception of a frightened and exiled Jew? Do we need to ask permission from the world? Hello and welcome Gaza, we started speaking Arabic, there was supposed to be a work plan for the State of Israel. The "new Jew" we are talking about is a Jew who stands close to his enemy, he looks at him with the whites of his eyes for a second before he takes his head off. Facing the Gaza problem there is only one equation: force will be met with much more force. Remember, agreements are only made with defeated enemies."	Hebrew	https://twitter.com/MiddleEastEye/status/1758168378793988430
51	15/02/2024	Yehuda Lopez	IDF soldier	genocidal intent/ civilian harm	"There are no innocents there. We have to get that into our heads." "No innocents, yes." "That no one remains."	Spanish	https://twitter.com/DalrympleWill/status/175800456967512354
52	2/7/24	Settlers/ Israeli citizens	Settlers/ Israeli citizens	genocidal intent/ civilian harm/ aid/ general racism	Settler celebrates the blocking of aid trucks to Gaza: "What a dazzling success, today it happened and it's thanks to you. We called you, we asked, you were here with us and look at this achievement: the trucks are standing here, loaded full of food, water, supplies, everything that Hamas needs, but it will not reach Hamas' hands today because we are here and we stopped it. There are more trucks along the border 132 trucks have been stopped and Hamas is going to bed hungry today, but we are going to continue to do these actions to ensure that this thing is stopped for good. We think that these actions will reach the top and make the long-awaited change. Oh, join the groups, be with us, follow the events, no aid should go through until the last of the abductees returns."	Hebrew	https://www.youtube.com/shorts/pS7SGFnAmRk
53	16/02/2024	Yinon Magal	Journalist	forced displacement	Magal mocking the destruction of Shat'i camp in Gaza: "Shati' this morning, after the renovation."	Hebrew	https://twitter.com/YinonMagal/status/1758254545656828057
54	19/02/2024	Orit Strook	Minister of Settlements and National Missions	genocidal intent/ forced displacement	Israeli Minister of Settlements and National Missions, Orit Strook, said during a speech in the Knesset on Monday that "there is no such such thing as a Palestinian people" and that "there will never be a Palestinian state in the land of Israel." Strook added that according to her, the vast majority of Israelis oppose the establishment of a Palestinian state and that such a state would be an "existential threat" to Israel and the "peace and order of the whole world".	Hebrew	https://www.instagram.com/middleeastve/reel/C3nVhdCIDVU/
55	19/02/2024	May Golan	Minister for the Advancement of Women	genocidal intent/ civilian harm	"I am personally proud of the ruins in Gaza." During a Knesset debate held on February 19, May Golan, Israel's Minister for the Advancement of Women, made a speech expressing her pride in the ruins of Gaza. Golan added that "every baby, even 80 years from now, will tell their grandchildren what the Jews did."	Hebrew	https://www.instagram.com/middleeastve/reel/C3pKR09sgpR/
56	19/02/2024	Yotam Zimri	Journalist	forced displacement	"We need to encourage voluntary immigration in thousands of ways" An Israeli commentator on the Now 14 TV channel in Israel advocated for mass immigration from Gaza, saying, "The more destroyed the land is, the more they will leave voluntarily."	Hebrew	https://www.instagram.com/middleeastve/reel/C3IKrDbkDFN/

Joint Communication to the Office of the Prosecutor of the International Criminal Court Regarding the Perpetration of the Crime of Genocide by Members of the Israeli War Cabinet

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