



Israel's War Crimes in Gaza Since 7 October

December 2023



London | Washington

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Background to Israel's War Crimes



01

Background to Israel's War Crimes

Since 1967, Israel is reported to have committed numerous crimes under international law throughout the Occupied Palestinian Territories (OPT) with total impunity, including the crime of apartheid.¹

In March 2021, the International Criminal Court (ICC) opened an investigation into possible Israeli crimes against humanity committed in Gaza and the West Bank since June 2014.²

Following 7 October, at the time of writing, Israel has killed more than 16,200 Palestinians in Gaza,³ including over 8,000 children.⁴ Numerous lawyers, UN experts, scholars, journalists, and NGOs have all called for investigations into Israel's war crimes and genocide in Gaza.⁵

As of 17 November 2023, the ICC's prosecutor's office has received a referral from five countries to investigate the crimes committed in the OPT from 7 October.⁶ Several countries' police forces, including those in England and Scotland, have told victims to report war crimes or crimes against humanity in Gaza and will be gathering evidence in collaboration with the ICC.⁷

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Legal Framework



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Legal Framework

War Crimes are outlined in international law in the 1949 Geneva Conventions, and the 1998 Rome Statute of the International Criminal Court.⁸ Crimes against humanity, such as genocide, are also outlined in the Rome Statute.⁹

In accordance with the Rome Statute of the International Criminal Court, a State Party may refer a situation to ICC prosecutors in which crimes within the jurisdiction of the Court appear to have been committed, to request an investigation into the situation.¹⁰ Investigations then determine whether one or more specific persons should be charged with the commission of such crimes.¹¹

In international law, a threshold of conflict must be reached for the charge of war crimes to apply, known legally as the *contextual* element of war crimes.¹² Namely, the conflict must be considered an international armed conflict or an armed conflict not of an international character, for war crimes to apply.¹²

- Although there is legal debate as to how the war in Gaza is defined, the war crimes outlined in this brief apply to both an international armed conflict or an armed conflict not of an international character.¹³
- This *contextual* element is not required for crimes against humanity such as genocide, which can be committed even during 'peacetime'.¹⁴

War crimes also contain a *mental* element, which means that those prosecuted had the intent to commit war crimes, and knowledge that they were taking place.¹⁵

- Therefore, the ICC has jurisdiction in particular when war crimes are "committed as part of a plan or policy or as part of a large-scale commission of such crimes".¹⁶

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War Crimes Committed **Indiscriminate Attacks**



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03

War Crimes Committed

Indiscriminate Attacks

Intentionally directing attacks against the civilian population¹⁷

The sheer scale of civilian casualties in Gaza demonstrates the intentionality of Israel's attacks against the civilian population.¹⁸ Multiple Israeli sources, including governmental officials, have also expressed their desire to wipe Gaza off the map, with Netanyahu physically erasing Palestine from the map in his address of the UN General Assembly in September.¹⁹

Israel's intentionality has also been demonstrated in cases where it has deliberately attacked areas where it has told civilians are safe, such as the so-called 'safe passage' which Israel bombed, after telling civilians to evacuate from northern Gaza along this very passage.²⁰

Repeated attacks in southern Gaza, supposedly a safe area where over 1 million residents of northern Gaza have been displaced to, also demonstrates an intentionality to the attacks against Gazan civilians.²¹

Launching attacks in the knowledge that such attacks will cause incidental loss of life or injury to civilians²²

Israel's extensive military and surveillance technologies mean that Israel knows how its attacks will affect the civilian population.²³ Indeed, one Israeli source said: "Nothing happens by accident".²⁴ "When a 3-year-old girl is killed in a home in Gaza, it's because someone in the army decided it wasn't a big deal for her to be killed — that it was a price worth paying in order to hit [another] target. We are not Hamas. These are not random rockets. Everything is intentional. We know exactly how much collateral damage there is in every home."²⁵

In another exchange discussed by Israeli sources, the Israeli military command knowingly approved the killing of hundreds of Palestinian civilians in an attempt to assassinate a single top Hamas military commander.²⁶ According to one source: "the numbers increased from dozens of civilian deaths [permitted] as collateral damage as part of an attack on a senior official in previous operations, to hundreds of civilian deaths as collateral damage".²⁷

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War Crimes Committed

Collective

Punishment



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04

War Crimes Committed

Collective Punishment

Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies²⁸

Israel's decision to besiege Gaza – by imposing a complete ban of objects essential for life from entering the territory, including food, medical supplies, fuel, electricity, and water – has resulted in the starvation, suffering, and death of civilians.²⁹ Multiple UN mandate holders and human rights organisations have expressed the view that these cruel and inhumane actions constitute “intentional starvation”, a war crime.³⁰

To sustain life the preexisting quality of life in Gaza, an average of 500 aid trucks of food and other goods were entering Gaza each day.³¹ These imports stopped completely from 7 October until 21 October. Between 21 October and 10 November, only 861 aid trucks were able to enter Gaza.³²

Many injured civilians were delayed in receiving hospital treatment due to a lack of fuel, and aid supplies were unable to be moved throughout Gaza.³³ The ban on medical supplies also resulted in doctors performing surgeries without anaesthesia or disinfectants for wounds, resulting in many infections, and crucial life support for premature babies had to be turned off.³⁴

All of Gaza's residents have been consuming far below the recommended daily calorie intake since the beginning of the siege,³⁵ and daily water consumption has been reduced by over 90%.³⁶ The only operating mill in Gaza cannot transform wheat into flour due to electricity outages.³⁷ There are no supplies left of vegetable oil, pulses, sugar or rice, and people were queuing on average for 4-6 hours to receive half the normal bread ration.³⁸

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War Crimes Committed Attacks on Medical Aid



05

War Crimes Committed

Attacks on Medical Aid

Intentionally directing attacks on personnel involved in humanitarian assistance³⁹

Israel's attacks have killed 22 on-duty healthcare workers, and injured 48, whilst they were providing humanitarian assistance.⁴⁰ The Red Cross' aid convoy on 7 November also came under fire, injuring the driver.⁴¹

Additionally, over 66 civilians sheltering in UNWRA facilities have been killed.⁴²

Intentionally directing attacks on medical personnel and facilities⁴³

- Human Rights Watch has called for Israel's attacks on medical facilities, personnel, and transport to be investigated as war crimes.⁴⁴
- At least 16 health workers have been killed by Israel whilst on duty, and 18 emergency services workers.⁴⁵

- Gaza's Indonesian Hospital, al-Ahli Arab Hospital, International Eye Care Centre, Turkish-Palestinian Friendship Hospital, and al-Quds Hospital, were all attacked in the first month of Israel's bombardment of Gaza.⁴⁶
- On 17 October, Israel's bombing of al-Ahli Arab Hospital killed over 500 people, many of whom were seeking medical assistance.⁴⁷
- Intentional attacks on hospitals, alongside shortages in fuel and medical equipment, have meant that 18 of 36 hospitals and 46 of 72 primary care centres in Gaza have shut down.⁴⁸
- Although Israel warned 22 hospitals in northern Gaza to evacuate, many patients were critically injured or unwell and could not be moved, thus suffering in Israel's attacks on the hospitals. The WHO Director General said: "it's impossible to evacuate hospitals full of patients without endangering their lives".⁴⁹

War Crimes Committed Attacks on Persons and Buildings Protected Under International Law



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War Crimes Committed

Attacks on Persons and Buildings Protected Under International Law

Intentionally directing attacks on journalists⁵⁰

As of 6 December, 59 journalists have been killed by Israel in Gaza or southern Lebanon – 56 Palestinians and 3 Lebanese.⁵¹ A further 11 journalists have been injured and three are missing.

Many journalists in Gaza have also faced telephone threats, assaults, cyberattacks, censorship, and the targeted killing of their family members.⁵²

Intentionally directing attacks on religious sites⁵³

Religious sites enjoy protected status under international law. However, in the first month of its aggression, Israel destroyed 66 mosques in Gaza, and damaged 146 others – roughly 20% of all mosques in Gaza.⁵⁴

Several churches have also been damaged. During the bombing of the oldest church in Gaza, the Church of Saint Porphyrius, 18 people sheltering inside were killed.⁵⁵

Intentionally directing attacks on education facilities⁵⁶

Damage to education facilities in Gaza is so severe that the Ministry of Education officially suspended the academic year 2023-2024.⁵⁷ In the month after 7 October, the OCHA reported that 279 educational facilities in Gaza had been damaged, over half of the total number.⁵⁸ All universities in Gaza have also been damaged.⁵⁹

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War Crimes Committed **Forced Transfer of the Civilian Population**



War Crimes Committed

Forced Transfer of the Civilian Population

Ordering the forced displacement of the civilian population for reasons related to the conflict⁶⁰

Israel also ordered the forcible transfer of half of Gaza's civilian population by instructing all residents of Gaza City to move to the area south of the Wadi Gaza.⁶¹

The International Committee of the Red Cross explicitly confirmed its assessment that “the instructions issued by the Israeli authorities for the population of Gaza City to immediately leave their homes [...] are not compatible with international humanitarian law”.⁶² The order, which displaced over 1 million Palestinians, amounts to the crime against humanity of forcible transfer of a civilian population.⁶³

When civilians from northern Gaza attempted to return to their homes during the humanitarian pause, they were shot at by the Israeli military, suggesting their forced displacement is permanent rather than temporary.⁶⁴

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War Crimes Committed **Use of Chemical Weapons in Civilian Areas**



War Crimes Committed

Use of Chemical Weapons in Civilian Areas

Although not a war crime, doctors in Gaza and human rights organisations have highlighted Israel's use of white phosphorus indiscriminately in civilian areas in Gaza and southern Lebanon, despite its use in civilian areas being prohibited under international law, and Israel pledging to stop its use in 2013.⁶⁵

Human Rights Watch has confirmed that Israel has employed "white phosphorous which is unlawfully indiscriminate when airburst in populated urban areas, where it can burn down houses and cause egregious harm to civilians", including the burning of flesh.⁶⁶

War Crimes Committed **Genocide: A Crime Against Humanity**



War Crimes Committed

Genocide: A Crime Against Humanity

The crime of genocide is outlined in Article 6 of the Rome Statute for the International Criminal Court and Article 2 of the Genocide Convention.⁶⁷

- Genocide is defined as acts committed with the specific intent to destroy, either in whole or in part, a national, ethnic, racial, or religious group.
- These acts encompass killing members of the group, causing them serious harm, and imposing conditions of life aimed at physical destruction of the group in whole or in part, among other underlying acts.
- Importantly, the people targeted can be a geographically limited part of the group, as is the case in Gaza.⁶⁸

According to multiple UN experts, “We are sounding the alarm: There 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”.⁶⁹

The intent to destroy Gazan Palestinians has also been sounded due to the forced displacement of Gazans to the southern areas around the Rafah crossing with Egypt.⁷⁰ Many experts have warned that Gazans will be left with the choice to be killed in Gaza, or forcibly displaced to the Sinai – eradicating the entire community of Gazan Palestinians.⁷¹

Alongside the multiple indiscriminate attacks aimed to destroy Gaza, Israel officials have publicly declared their *intent* to do so, important for prosecution under international law.⁷²

- On 29 October, Prime Minister Benjamin Netanyahu used Judaic scripture to justify the killing of Palestinians. “You must remember what Amalek did to you, says our Holy Bible,” he said, quoting a verse that says: “Now go and smite Amalek ... kill both man and woman, infant.”⁷³
- On 5 November, Heritage Minister Amihai Eliyahu said one of Israel’s options in Gaza is dropping its nuclear bombs. He also argued that no humanitarian aid should be provided to Palestinian civilians as “there is no such thing as uninvolved civilians in Gaza”.⁷⁴

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