

PALESTINE vs. ISRAEL OFFICIALS at THE INTERNATIONAL CRIMINAL COURT

- Date:** 09 February 2024
Request: Criminal Charges & Request for Issuing an Arrest Warrants
Suspects: Mr. Benjamin Netanyahu, Mr. Isaac Herzog and Mr. Yoav Galant
Charges:
- Violations of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, 1949, in regards to the rights of Palestinian people as encompassed in articles 3, 16, 17, 18, 20, 21, 23, 24, 27, 31, 33, 34, 42, 43, 49, 50, 53, 56 and 78 of the Convention.
 - Violations of the Rome Statute, 1998, in regards to
 - Article 6 on Genocide,
 - Article 7 on Crime Against Humanity
 - Article 8 on War Crimes, and
 - Article 8bis on the Crime of Aggression.

Summary:

The present request introduce an application for the immediate issuance of arrest warrant against Mr. Benjamin Netanyahu, Mr. Isaac Herzog and Mr. Yoav Galant, leaders of the state of Israel for their active part in the crimes listed below, perpetuated on the Palestinian territory and against its the innocent civil population.

The Prosecutor is hereby urged to instigate investigations on the events unfolding in Palestine since the October 7th, 2023. It is the goal of this request that his Excellency will see fit to press criminal charges against the suspects on the ground of the following crimes:

- Disproportionality of the attacks by the defendants
- Unlawful use of restricted weapons
- Crime of Aggression (abuse of the right to self-defence)
- Collective punishment (Breach of Articles 33 of the Geneva Convention)
- Inhumane treatment (Breach of Articles 31, 27, 42, 43, and 78 of the Geneva Convention)
- Attacks on medical facilities & staff, including ambulances (Breach of Articles 18, 20, 21, and 56 of the Geneva Convention)
- Targeting of wounded and sick patients (Breach of Articles 16 and 3 of the Geneva Convention)
- Attacks on children rights (Breach of Articles 17, 23, 24, and 50 of the Geneva Convention)
- Mass forcible transfers (Breach of Article 49 of the Geneva Convention)
- Destruction of cultural inherited (Breach of Article 53 of the Geneva Convention)
- Crime Against Humanity (Breach of Article 3 of the Geneva Convention and Article 7 of the Rome Statute)
- Genocide (In violation of the Article 6 of the Rome Statute)

The atrocities perpetrated, and ongoing, in Gaza are a shadow slowly tainting the entirety of humanity and it is time for the Court to act as the beacon she has been untrusted to be and held accountable the men responsible for these crimes.

TO: Evidence and Discovery Management Unit – EDMU
Office of the Prosecutor
Post Office Box 19519
2500 CM The Hague
The Netherlands
DIGITALLY SUBMITTED BY: OTPLink

**CRIMINAL CHARGES
&
REQUEST FOR ISSUING AN ARREST WARRANT**

Capelle aan den IJssel, 09 December 2024

Regarding: **PALESTINE / ISRAEL OFFICIALS**
File no.: **LFN00524/MT/ED**
E-mail: [REDACTED]@lawfirmtaheri.com
Attachment: -

Your Excellency Mr. Khan,

Herewith, the undersigned, lawyer at International Law Firm Taheri, human and a member of humanity, files, on behalf of myself and the Palestinian people, for whom I herewith act as surrogate, a complaint against, Mr. Benjamin Netanyahu, Mr. Isaac Herzog and Mr. Yoav Galant (hereafter referred to as 'the suspects' or 'the defendants'), leaders of the State of Israel, for their direct involvement, and their role as leaders, in the commission of war crimes against the innocent people of Palestine that were initiated on October 7th, 2023, and are ongoing to this day.

Plaintiffs, as mentioned above and those who will undersign this complaint, request you – the prosecutor of the International Criminal Court– to (at least) investigate and/or prosecute the suspects for their involvement in war crimes and the violation of The Statute of Rome, more specifically:

- Genocide;
- Crimes against humanity;
- Breach of the Geneva Conventions; and
- The Crime of aggression against the nation of Palestine and its innocent people;

I will substantiate these claims with proof and provide legal grounds for the legitimacy of the requested prosecution.

A. ARREST WARRANTS

1. First and foremost, I urge and request you to submit an application to the Pre-Trial Chamber of the International Criminal Court for the issuance of arrest warrants against Benjamin Netanyahu, Isaac Herzog and Yoav Galant. Such warrants are required to ensure that the mentioned suspects cannot flee and/or hide in a different country in which the factual reach



of the ICC is (more) limited.

2. The warrants are also sacred in order to protect victims and witnesses and to safeguard the investigation. These reasons were sufficient for Your Excellency and for the Court to issue arrest warrants for (alleged) crimes in Ukraine. Therefore, based on the same case law, the victims and the relatives of the murdered or injured innocent Palestinians have the right to see the Court come to action.
3. Failing to pursue, or rejecting the requested arrest warrants without sustainable legal arguments and grounds will not only harm the credibility of the Court but will – I believe – lead to its dissolution. Indeed, it risks eroding the trust of the States party in the Court and precipitate their withdrawal from the Rome Statute.

B. JURISDICTION OF THE COURT:

4. The fact that the suspects are citizens, and leaders, of Israel, a state not party to the Rome Statute, will not form an obstacle for the Court to investigate, pursue, and convict the crimes. After all, the State of Palestine has recognised the mentioned Statute, which means that the Court has jurisdiction over crimes committed on its territory, as it was the case in the matter between Ukraine and the Russian Federation.
5. I want to emphasise that in the event your Excellency or the Court were to decide otherwise in the matter between the innocent Palestinian people and Israel, you and the Court would lose your credibility as an actual independent judicial institution. However, as I firmly believe in the independence of both you and the Court, and in the confidence that you both will serve the people and justice, I am confident that this will not be the case. As a (international) lawyer, I believe that the (international) law applies to all of us (who live on Earth) whether we accept it or not. Same goes for any State citizen living in 'his/her' State where citizens do not need to accept the rule of law.

C. THE FACTS:

6. On October 7, 2023, the militant Palestinian movement Hamas began an attack on Israel under the name Operation al-Aqsa storm. As a result of this attack, based on the information of the Israeli authorities,¹ 1200 innocent Israeli citizens have lost their lives. This attack was illegal and is a breach of several international conventions, and the many decades of mental torture, illegal detention, captivity', and murder of Palestinians (including many children and juveniles) by Israel cannot be used as a justification for that attack.
7. Hamas has been classified as a terrorist organization by the EU, the US, Canada, Australia, and Japan. It has 20,000 to 25,000 members.² The main reason for this is the fact that Hamas has committed many (suicide) attacks in Israel, which has taken the lives of many innocent civilians. I acknowledge that random attacks against civilians are cruel and an act of terrorism.

¹ <https://nos.nl//2497396>

² https://www.dni.gov/nctc/ftos/hamas_fto.html



8. On the same day, October 7, 2023, Israel started a retaliatory attack against (according to Israel) Hamas as an organization and its members. However, as of today, more than 27000 innocent civilian Palestinians³, of which at least 10000 are children,⁴ have been killed by Israel and more than 66835⁵ injured.
9. Just one day after the aforementioned attack of Hamas, Israel announced that Palestinians should leave their houses and abruptly halt their daily lives due to the unprecedented counterattack plans of the defendants.⁶ Interestingly enough, Netanyahu has explicitly mentioned, *“Any place Hamas deploys, in this evil city, all the places Hamas is hiding, operating — we will turn it into a ruin.”*⁷ And that they did. Already on October 8, 2023, Israel had killed 313 innocent Palestinian civilians, of which at least 20 children. Besides that, almost 2000 more Palestinians were injured.⁸
10. The abovementioned quote of Netanyahu shows no consideration for the safety of Palestinian civilians at all. It seems, after all, that killing Hamas members will be the goal of the defendants, disregarding whether civilians will be injured or murdered as a side effect of that goal. Israel has been using a “dehumanization” strategy to justify its attacks on civilian areas.⁹ Statements such as the one of Israeli Defence Minister Yoav Gallant saying, *“We are fighting against human animals,”*¹⁰ referring to Palestinians, are clear examples of the dehumanization of Palestinians by the defendants.
11. Israeli professor of international law and human rights Neve Gordon¹¹ has stated that Israel *“interprets its actions in such a way as to show that they were carried out according to the laws of war, and therefore, it claims that it is moral ... At the same time, it dehumanizes the Palestinians in claims that they are immoral, (...) Palestinians are presented as barbarian and as primitive and as people who do not understand the laws of war, people that do not make distinctions between civilians and combatants, and so forth, and therefore they are immoral, while Israel claims that it tries to protect civilians.”* A few days after that, on October 31, 2023, the OCHA¹² announced at the UN that over 1.4 million Palestinian civilians had been chased away from their homes (which later on were destroyed by order of the defendants).¹³

³ <https://www.barrons.com/news/health-ministry-in-hamas-run-gaza-says-war-death-toll-at-27-238-fa86b29b>

⁴ <https://reliefweb.int/report/occupied-palestinian-territory/gaza-10000-children-killed-nearly-100-days-war>

⁵ <https://iranpress.com/-unrwa-chief-says-about-100-000-palestinians-killed--wounded-or-missing-in-gaza>

⁶ <https://nos.nl//2493408>

⁷ <https://www.timesofisrael.com/promising-merciless-war-on-hamas-netanyahu-says-israel-will-avenge-this-black-day/>

⁸ <https://nos.nl//2493335>

⁹ <https://www.aa.com.tr/en/middle-east/israel-paints-palestinians-as-animals-to-legitimize-war-crimes-israeli-scholar/3030278#>

¹⁰ <https://www.middleeasteye.net/news/israel-palestine-war-fighting-human-animals-defence-minister>

¹¹ Neve Gordon, a member of the Faculty of Law at Queen Mary University in London

¹² <https://reliefweb.int/report/occupied-palestinian-territory/hostilities-gaza-strip-and-israel-flash-update-24-enarhe>

¹³ <https://nos.nl/liveblog/2496042-lange-rij-lichamen-na-israelische-luchtaanval-op-vluchtelingenkamp#UPDATE-container-73080846>



12. The State Israel is a full member of the GENEVA CONVENTION RELATIVE TO THE PROTECTION OF CIVILIAN PERSONS IN THE TIME OF WAR OF AUGUST 12, 1949. This means that Israel is obligated to fulfil all the regulations and conditions mentioned in the convention. Yet, defendant Gallant, has stated on October 10, 2023, *“I have released all the restraints”*¹⁴ and that the Palestinians *“will regret this moment, Gaza will never go back to what it was”*¹⁵. In fact, on day 3 after the initial Hamas attack, the defendants announced a ‘complete siege’ of Gaza, cutting its electricity, food, water, and fuel.¹⁶ The mentioned defendant has stated that there will be *“No electricity, no food, no fuel, no water. Everything is closed. We are fighting against human animals, and we act accordingly.”*¹⁷
13. In this regard, it is important to point out that Human Rights Watch stated on December 6, 2022, in regard to the special operation of Russian Ukraine, that *“By repeatedly targeting critical energy infrastructure knowing this will deprive civilians of access to water, heat, and health services, Russia appears to be seeking unlawfully to create terror among civilians and make life unsustainable for them.”*¹⁸ Regarding to the used tactics of the above-mentioned special operation of Russia, Marie Struthers, Amnesty International’s Director for Eastern Europe and Central Asia, said: *“Russia’s targeting of Ukrainian civilian infrastructure is unlawful. The morale of the civilian population is not a lawful target, and carrying out these attacks with the sole purpose of terrorizing civilians is a war crime. All those responsible for ordering and committing these criminal attacks must be held to account.”*¹⁹
14. On October 19, 2022, Ursula von der Leyen, President of the European Commission, stated at the plenary session of the European Parliament (EP) in Strasbourg that *“International order is very clear; these are war crimes. Targeted attacks on civilian infrastructure with a clear aim to cut off men, women, and children of water, electricity, and heating, with winter coming: these are acts of pure terror, and we have to call them such.”*²⁰
15. Thus, as a matter of fact, and in line with Mrs. Von der Leyen’s demand, I hereby call the actions of the defendants against Palestinian civilians, which share a similar scale and nature, as “pure terror” and a “very clear” violation of international law and the “international order.”
16. As Mr. Kyriakos Mitsotakis, the Prime Minister of Greece, stated on October 31, 2023, during the 27th Annual Economist Government Roundtable, that *“Hamas does not speak on*

¹⁴ <https://www.timesofisrael.com/gallant-israel-moving-to-full-offense-gaza-will-never-go-back-to-what-it-once-was/>

¹⁵ <https://www.timesofisrael.com/gallant-israel-moving-to-full-offense-gaza-will-never-go-back-to-what-it-once-was/>

¹⁶ <https://www.businessinsider.com/israel-gallant-announces-complete-siege-gaza-no-electricity-food-fuel-2023-10?international=true&r=US&IR=T>

¹⁷ <https://www.middleeasteye.net/news/israel-palestine-war-fighting-human-animals-defence-minister>

¹⁸ <https://www.hrw.org/news/2022/12/06/ukraine-russian-attacks-energy-grid-threaten-civilians>

¹⁹ <https://www.amnesty.org/en/latest/news/2022/10/ukraine-russian-attacks-on-critical-energy-infrastructure-amount-to-war-crimes/>

²⁰ <https://audiovisual.ec.europa.eu/en/video/l-231551>

<https://www.youtube.com/watch?v=MOOWYTDz8gU>



behalf of the Palestinian people”, and “we cannot confuse Hamas (...) with the Palestinian people.”²¹ Yet, the defendants are, in fact, perpetuating a collective punishment on the innocent Palestinian people by blocking the supply of fuel, water, food, etc., from Monday, October 9, 2023.

17. While the rain of bombs was falling on the innocent Palestinian civilians in Gaza from October 7, 2023, the defendants took the matter on to the next level. On Friday, October 13, 2023, the defendants demanded that 1.1 million of Palestinians in Gaza should leave North Gaza within 24 hours due to the start of the ground attacks ordered by the defendants.

C.1 Attacks on medical facilities and staff

18. On Saturday, October 11, 2023, the first reports given by, among others, the Palestine Red Crescent Society (PRCS) conveyed how the defendants were actively attacking ambulances and hospitals.²² Defendants denied this. However, this denial later appeared to be false. The 36 years old paramedic staff Alaa Shamout has stated on October 21, 2023²³, that *“The ambulance was struck as I was moving people injured in Israeli attacks into the Nasser Medical Center in Khan Younis in southern Gaza on October 7th”*. The PRCS reported²⁴ on November 3rd, 2023, in detail how an ambulance was targeted and struck by a missile, resulting in immediate and direct damage to the ambulance as well as injuring its crew and the injured inside. Also, on January 10, 2024, it was reported that an ambulance was bombed, resulting in the murder of four Palestinian Red Crescent members (among the six victims).²⁵ Israel denies also this bombing.
19. Israel acknowledged, however, that it attacked an ambulance on November 3, 2023, because it was allegedly used by the Hamas militia. According to a report of November 4, 2023²⁶ the *“Israeli army bombed a convoy of ambulances near the largest hospital in Gaza on Friday, an attack that ‘horrified’ United Nations Secretary-General Antonio Guterres. (...) The attack resulted in 15 deaths and at least 60 wounded civilians, according to the Palestinian Red Crescent Society (PRCS). In a statement, the PRCS said the convoy of five ambulances tried to transport casualties toward the Rafah border crossing, but was returning to the hospital because the road was blocked with rubble when it was targeted by two missiles.”* This attack is thus confirmed and confessed by the defendant, yet they maintained that the attack was justified.

²¹ <https://www.aljazeera.com/news/2023/10/10/we-cant-confuse-hamas-with-all-palestinians-spain-says-amid-aid-review>

<https://www.primeminister.gr/en/2023/10/31/32908>

<https://www.ekathimerini.com/news/1223571/mitsotakis-says-hamas-is-a-terrorist-organization/>

²² <https://www.palestinercs.org/public/files/image/2023/Gaza%20Statement%2011.10.2023%20Final.pdf>
<https://nos.nl/l/2494116>

²³ <https://www.aa.com.tr/en/middle-east/gaza-s-medics-battle-to-save-lives-under-israeli-bombardment/3027905>

²⁴ <https://www.palestinercs.org/public/files/image/2023/News/112023/PRCS%20Statement%2003112023.pdf>

²⁵ <https://www.aa.com.tr/en/middle-east/6-killed-as-israeli-jets-bomb-ambulance-in-central-gaza/3105475>
<https://www.abc.net.au/news/2024-01-12/israel-denies-bombing-palestinian-red-crescent-ambulance-gaza/103312722>

²⁶ <https://www.politico.eu/article/israel-bomb-ambulance-convoy-gaza-hospital-al-shifa/>



20. Moreover, the defendant also targeted ambulances in Lebanon. According to a report²⁷ of November 6, 2023, an Israeli drone “*raided the outskirts of the village of Tayr Harfa and targeted two ambulances belonging to the Al-Resala Health Ambulance Association, wounding four paramedics.*”
21. The suspected crimes of the defendants spread yet further, to attacking, or at least creating direct threat of bombing, hospitals. On October 13, 2023, and the days that followed, all hospitals in northern Gaza, including Al-Ahli, have received general orders to evacuate. These actions are strongly condemned by the World Health Organization (WHO).²⁸ According to the report of the well-established The Guardian, quoting the WHO: “*evacuation of some hospitals was ‘impossible to carry out’*”²⁹
22. On October 16, 2023,³⁰ at about 18.59 o’clock, the Al-Ahli Hospital in Gaza was attacked, resulting in the death of 471 and 342 injured. Although the defendants also deny involvement, there are many experts who believe that the defendants were behind this attack. After all, the defendants were already warning the staff and the patients of that hospital on 14, 15 and 16 October 2023,³¹ to evacuate the hospital. They had even dropped bombs near the hospital as a warning for the planned attack at the hospital.
23. The regional directors of UNFPA, UNICEF and WHO called on November 12, 2023, for urgent international actions to end the ongoing attacks on hospitals in Gaza³². In their statement they reported that, as of November 12, 2023 the “*WHO has recorded at least 137 attacks on health care in Gaza, resulting in 521 deaths and 686 injuries, including 16 deaths and 38 injuries of health workers on duty.*”
24. “*The Israeli military’s repeated, apparently unlawful attacks on medical facilities, personnel, and transport are further destroying the Gaza Strip’s healthcare system and should be investigated as war crimes*” Human Rights Watch said on November 14, 2023.³³
25. On November 18, 2023, Aljazeera reported³⁴ that the “*continuous shooting (...) at the entrance to al-Shifa Hospital in Gaza City.*” According to the same report, the Nasser Medical Complex in Khan Younis in southern Gaza had been “*repeatedly targeted over the past 48 hours.*”

²⁷ <https://www.aa.com.tr/en/middle-east/israeli-drone-strike-on-ambulance-in-southern-lebanon-wounds-4-paramedics/3044904>

²⁸ <https://www.emro.who.int/media/news/evacuation-orders-by-israel-to-hospitals-in-northern-gaza-are-a-death-sentence-for-the-sick-and-injured.html>

²⁹ <https://www.theguardian.com/world/2023/dec/01/hospital-damage-in-gaza-during-israeli-offensive-a-visual-investigation>

³⁰ <https://nos.nl/l/2494578>

³¹ <https://www.hrw.org/news/2023/11/26/gaza-findings-october-17-al-ahli-hospital-explosion>

³² <https://www.unicef.org/mena/press-releases/unfpa-unicef-and-who-regional-directors-call-immediate-action-halt-attacks-health>

³³ <https://www.hrw.org/news/2023/11/14/gaza-unlawful-israeli-hospital-strikes-worsen-health-crisis>

³⁴ <https://aje.io/7n1q6g>



26. On November 20, 2023, the Indonesian Hospital in Gaza was attacked, resulting, according to the WHO,³⁵ in the killing of at least 12 persons, including patients and their companions residing at the hospital. Tens of people were also injured in the attack. The WHO stated in the mentioned report that *“Health workers and civilians should never have to be exposed to such horror, and especially while inside a hospital.”*
27. At the beginning of December 2023, the Kamal Adwan hospital in northern Gaza was attacked by the defendants as a result of their order. After hospitals, including one dedicated to treating children, were hit by airstrikes in that week, on December 7, 2023 the United Nations Human Rights office of the high Commissioner stated that *“Israel has declared an ‘unrelenting war’ on the health system in Gaza.”*³⁶
28. On December 20, 2023, the British Medical Journal stated that *“Doctors and healthcare staff are being arrested in Gaza as tanks surround hospitals and heavy Israeli bombardments and ground operations continue in the Palestinian territory.”*³⁷
29. Based on the data of the WHO, the UN declared on January 5, 2024³⁸ that the defendants have undertaken 600 attacks on healthcare in Gaza and the West Bank since the war began. The report goes on by stating that *“Children in the Gaza Strip face a deadly triple threat to their lives, as cases of diseases rise, nutrition plummets and the escalation in hostilities approaches its fourteenth week. Thousands of children have already died from the violence, while living conditions for children continue to rapidly deteriorate, with increasing cases of diarrhoea and rising food poverty among children, raising the risk of mounting child deaths.”*
30. The above-mentioned publication by the UN continues by mentioning that *“The head of the UN Children’s Fund UNICEF said in a statement on Friday that children in Gaza “are caught in a nightmare that worsens with every passing day. (...) Cases of diarrhoea in children under five rose from 48,000 to 71,000 in just one week starting 17 December, equivalent to 3,200 new cases of diarrhea per day.”*
31. Clearly, the defendants did not care about the health or the safety of the civilians and especially the children and the injured. The defendants have repeatedly said Hamas operates within and beneath hospitals. In the case of at least two of the hospitals studied – al-Shifa and al-Rantisi – the defendants have accused Hamas of using the basements as command centres.³⁹ The fact is, however, that even after the defendants had taken control over the accused medical facilities, not a single evidence had been provided that those facilities have been used by Hamas. At the same time, Voice of America News has reported that *“While acknowledging that it has a network of hundreds of kilometres of secret tunnels, bunkers and access shafts throughout the Palestinian enclave, Hamas has*

³⁵ <https://www.emro.who.int/media/news/who-appalled-by-latest-attack-on-indonesian-hospital-in-gaza.html>

³⁶ <https://www.ohchr.org/en/press-releases/2023/12/gaza-un-expert-condemns-unrelenting-war-health-system-amid-airstrikes>

³⁷ <https://www.bmj.com/content/383/bmj.p2973.full>

³⁸ <https://news.un.org/en/story/2024/01/1145317>

³⁹ <https://www.theguardian.com/world/2023/dec/01/hospital-damage-in-gaza-during-israeli-offensive-a-visual-investigation>



*denied that these are in civilian infrastructure like hospitals.*⁴⁰ Yet, the defendants have published some pictures⁴¹ and videos⁴² claiming to have found a 55-meter tunnel, but these claims have never been checked independently. Although the claim of the defendants⁴³ gets more interesting, its value of the decreases, in view of the many reports that Israel has dug the tunnels themselves. A scenario that seems to be quite realistic, seeing the analyses of Zoran Kusovac, a military analyst, stating that the mentioned tunnel is, in fact, two separate tunnels which couldn't have been made secretly. At the same time, it is interesting to mention that yet no Hamas control centre has been found under any civilian buildings.

32. The results of the analysis of Forensic Architecture, a London-based research group, published on December 20, 2023⁴⁴, show a repeated and consistent pattern of attacks on hospitals across the region by the defendants.
33. On the same day, December 20, 2023, the defendants have even bombed a charity building in Gaza's Jabalia refugee camp.⁴⁵ Although it did not had anything to do with the war or with Hamas, the Israeli forces who are under the command of the defendants have even torn down Palestinian statues on that day.⁴⁶
34. This day goes on being a staggering one as it was then that the UN warned that water shortages in Gaza will become a deadly risk for the children there. A shortage that is intendedly created by the defendants. The UN in this regard published an article that was titled "*Barely a drop of safe water to drink in Gaza, UN aid agency warns*".⁴⁷
35. The safety situation in Gaza has become so bad that Doctors Without Borders (MSF), who are quite use to work in war zones, has announced, on January 7, 2024, its withdrawal from the Gaza Strip, including from Al-Aqsa hospital, in the face of increasing Israeli army attacks.⁴⁸
36. Al Jazeera has reported on January 10, 2024 that "*unmanned Israeli quadcopters started shooting at anything that moved outside the [Al-Aqsa Martyrs Hospital], sending the tens of*

⁴⁰ <https://www.voanews.com/a/israel-55-meter-fortified-tunnel-found-under-shifa-hospital-/7361540.html>

⁴¹ <https://aje.io/hoyux0>

<https://www.pbs.org/newshour/world/discovery-of-major-hamas-tunnel-in-gaza-renews-scrutiny-of-israeli-intelligence-failures>

<https://www.voanews.com/a/israel-hamas-engage-in-fierce-battles-in-gaza-s-biggest-cities-/7389468.html>

⁴² <https://www.theguardian.com/world/2023/nov/19/idf-israel-army-footage-claims-hamas-tunnel-al-shifa-hospital-gaza>

⁴³ <https://www.france24.com/en/tv-shows/truth-or-fake/20231130-al-shifa-hospital-where-the-tunnels-discovered-by-israel-built-by-israel>

⁴⁴ <https://forensic-architecture.org/investigation/destruction-of-medical-infrastructure-in-gaza>

<https://www.aa.com.tr/en/europe/israels-persistent-attacks-erode-gazas-hospital-infrastructure-forensic-architecture/3089475>

⁴⁵ <https://aje.io/qjn1kb>

⁴⁶ <https://aje.io/0m9d5e>

⁴⁷ <https://news.un.org/en/story/2023/12/1144972>

⁴⁸ <https://www.aa.com.tr/en/middle-east/doctors-without-borders-announces-evacuation-from-al-aqsa-hospital-gaza-amid-israeli-attacks/3102454>



*thousands of families scrambling to dismantle their tents and flee for their lives. Israeli tanks had reached the entrance to the Maghazi refugee camp by then, and the Israeli army had announced that the vicinity of the hospital had become a theatre of operations.*⁴⁹ This led to terrified people fleeing Israeli attacks at Al-Aqsa Martyrs Hospital.

37. Just 2 days later, on January 12, 2024, the main hospital in central Gaza (the Al-Aqsa Martyrs Hospital) warned of incoming catastrophe as generators ran out of fuel.⁵⁰ The day after, January 13, 2024 there was a total blackout at the Al-Aqsa Hospital due to the end of fuel. *“We worked on the light of mobile phones to take care of the condition of children in intensive care, and the devices work on secondary power, and if they stop, the children lose their lives,” said Dr Warda al-Awawdeh, who works in the nursery unit.*⁵¹
38. On January 18, 2024, workers with the Palestinian Red Crescent documented the destruction left by Israeli attacks on a hospital in Gaza City.⁵² The video shows the ruins of a hospital that is completely destroyed.
39. Four days later, on January 22, 2024, PRCS reported that its ambulance centre had been attacked, preventing first responders from reaching the wounded.⁵³ Nasser Hospital in Khan Younis, just like all the hospitals in southern Gaza, is also under intense attacks. PRCS spokesperson Nebal Farsakh told Al Jazeera, with ambulances unable to respond to calls. *“The Israeli occupation is preventing ambulance vehicles from moving to recover bodies of martyrs and the wounded from western Khan Younis,”* Gaza Ministry of Health spokesperson Ashraf Al-Qudra declared to Al Jazeera.
40. The Guardian⁵⁴, Al Jazeera⁵⁵, and many other agencies have reported on January 30, 2024 that *“Israeli forces have stormed al-Amal hospital in the southern Gaza city of Khan Younis ‘under the threat of weapons, gunfire and shelling’, the Palestinian Red Crescent Society (PRCS) has said. In a social media post, the organisation said displaced people and its teams ‘are being demanded to evacuate the building under the threat of arms’.* On the same day, at 17:39 CET, The Guardian also revealed, based on the report of Reuters, that Israeli military spokesperson has denied the attack, saying: *“There’s no storming of the hospital, entry into it or any ordering of people to leave at gunpoint.”* This claim appeared to be partly right: there was indeed no ordering of people to leave the hospital at gunpoint. Instead of ordering for people to leave, the Israeli forces have directly raided the hospital⁵⁶

⁴⁹ <https://aje.io/boh43s>

⁵⁰ <https://www.aa.com.tr/en/middle-east/main-hospital-in-central-gaza-warns-of-catastrophe-as-generators-run-out-of-fuel/3107584>

<https://iranpress.com/podcast--no-fuel-at-al-aqsa-hospital-in-gaza--patients-at-risk>

⁵¹ <https://aje.io/ziq4n5>

⁵² <https://aje.io/aispkt>

⁵³ <https://aje.io/tvigq7>

<https://www.bbc.co.uk/news/world-middle-east-68055933>

⁵⁴ <https://www.theguardian.com/world/live/2024/jan/30/middle-east-crisis-live-updates-unrwa-donations-pause-hamas-attack-israel-gaza-war-antony-blinken-drone-attack-jordan-us-troops?filterKeyEvents=true#filter-toggle-desktop>

⁵⁵ <https://aje.io/av8a82>

⁵⁶ <https://aje.io/urh53g>



at approximately 05:43 CET, dressed as patients, doctors, civilians and women (as it is proven by the recorded videos by the security cameras)⁵⁷ killing 3 Palestinians. One of these men was injured by missile fragments following an Israeli attack on October 25, 2023, and had been receiving treatment at the hospital for three months. According to the sources of Al Jazeera, the “Hospital says the men were ‘assassinated’”

C.2 inhumane and degrading treatment of Palestinians

41. In the meantime, the defendants have allegedly committed a different (war) crime. On December 7, 2023, the newspaper Haaretz published pictures and videos of captured Palestinians who have been stripped naked and blindfolded. Yet there seems to be no reason why these war prisoners had to remain naked the entire time, even when the pictures were taken. Keeping these war prisoners naked while knowing that being undressed publicly is felt as a huge humiliation – especially when they have been photographed – seems to be against the abovementioned international laws. This is especially true when considering indications that, despite the claims of the defendants, the captured prisoners are civilians.⁵⁸
42. In a statement of December 18, 2023, the Latin Patriarchate of Jerusalem said that two Christian women were killed by sniper forces of the defendants inside the Holy Family Parish church compound in Gaza.⁵⁹ Although the defendants deny involvement,⁶⁰ there are witnesses⁶¹ who refute that denial.
43. Witness statements describe in detail how an apartment in Heikh Radwan, Gaza, was the site of the torture, humiliation and, at the end, the execution of 15 innocent Palestinians on December 19, 2023.⁶² The husband of the witness was one of the tortured and executed victims. This was all done in front of the witness and other family members of the victims. This results in all of them suffering enormous trauma. The witnesses describe that they were also ‘waiting’ to be executed. A 3-year-old girl was killed on the spot, in the arms of her sister, by shrapnel. Human rights groups have been gathering testimonies of the alleged summary executions.⁶³ The witness statements and the video evidence show executed men with bullet wounds in their back.
44. “Muhammad Shehada, of the Euro-Mediterranean Human Rights Monitor in Copenhagen, told Al Jazeera his organisation believes there is a pattern of a ‘systematic’ killing taking place on the ground” reported Al Jazeera.⁶⁴

<https://www.bbc.com/news/world-middle-east-68137050>

⁵⁷ <https://aje.io/y352mg>

⁵⁸ <https://t.co.YTMUS8mcwQ>

⁵⁹ <https://www.jpost.com/israel-hamas-war/article-778505>
<https://aje.io/b33rsm>

⁶⁰ <https://www.timesofisrael.com/idf-refutes-claim-it-targeted-sole-catholic-church-in-gaza-after-2-women-said-killed/>

⁶¹ <https://edition.cnn.com/2023/12/16/middleeast/idf-sniper-gaza-church-deaths-intl-hnk/index.html>

⁶² <https://aje.io/5ancqa>

⁶³ <https://aje.io/scrf98>

⁶⁴ <https://aje.io/scrf98>



45. Reports from Israeli based rights group counts near 9,000 Palestinian detainees held in Israeli jails.⁶⁵ Euro-Mediterranean Human Rights Monitor launched an urgent appeal for the immediate formation of an international delegation to visit Israeli prisons and detention camps, where Palestinian detainees are held, as evidence mounts of widespread violations of mass arrests, forced disappearances, torture, ill-treatment, and even killings.⁶⁶ The letter highlighted that shortly after their arrest, detainees have been subjected to systematic abuse such as being stripped of their clothes, handcuffed, blindfolded, severely beaten, harassed, sexually assaulted, deprived of sleep, food, water, and basic hygiene, and degraded in front of cameras.
46. Neither medical facilities nor any refugee camps are safe for the Palestinians. On January 4, 2024 a video was published showing many Palestinian men who have been filmed blindfolded and lined up in a single file as Israeli forces detained them during a raid on a refugee camp in Tulkarem in the occupied West Bank.⁶⁷
47. On January 10, 2024, a released prisoner named Lama Khater stated that during detention, she had been threatened by the military forces of the defendants with rape as well as the threat of killing her and her family, and burning her house down.⁶⁸
48. Reuters reported on January 16, 2024 that a Palestinian shop-owner was used as human shield by Israeli forces.⁶⁹ A claim that the victim has backed up with footages of the security cameras that have recorded the crime.⁷⁰ It should be reminded that the defendants has repeatedly accused Hamas of using civilians as human shield in Gaza,⁷¹ while now it is proven that the defendants are guilty of that.
49. On the same day, January 16, 2024, security camera footage shows a Palestinian man killed by the forces of the defendants while he was opening a barrier in the occupied West Bank.⁷² There was no threat to anybody at that moment and one can see no reason at all for the fatal shooting. Such crimes are not new to the defendants for same crimes have been committed even before the attack of Hamas on October 7, 2023. CNN reported on August 22, 2023, that a Palestinian man was shot from behind by Israeli security forces⁷³ for no legitimate reason.

⁶⁵ <https://www.aa.com.tr/en/middle-east/nearly-9-000-palestinian-detainees-held-in-israeli-jails-israeli-ngo/3125307>

⁶⁶ <https://reliefweb.int/report/occupied-palestinian-territory/revealing-horrific-conditions-faced-palestinian-detainees-euro-med-monitor-calls-immediate-international-delegation-inspect-israeli-detention-camps-enar>

⁶⁷ <https://aje.io/5lmht1>

⁶⁸ <https://aje.io/n3xl55>

⁶⁹ <https://www.reuters.com/world/middle-east/palestinian-says-israeli-soldiers-used-him-human-shield-west-bank-2024-01-16/>

⁷⁰ <https://aje.io/9gteeb>

⁷¹ https://www.timesofisrael.com/liveblog_entry/palestinian-says-israeli-soldiers-used-him-as-human-shield-during-west-bank-raid/

⁷² <https://smdpost.com/2024/01/16/palestinian-man-killed-while-opening-occupied-west-bank-barrier/>
<https://aje.io/ao02nb>

⁷³ <https://edition.cnn.com/2023/08/22/middleeast/palestinian-shot-behind-west-bank-israeli-forces-intl-hnk/index.html>



50. *“The U.N. Office of the High Commissioner for Human Rights on Friday accused Israel⁷⁴ of detaining thousands of Palestinians in secret locations in Gaza and the West Bank and subjecting them to mistreatment that could amount to torture. Addressing journalists in Geneva by video link from Gaza, Ajith Sunghay, OHCHR representative in the Occupied Palestinian Territory, said he met “a number” of released detainees who said they’d been held by Israel Defence Forces for between 30 and 55 days.”* reported the Voice of America on January 19, 2024.⁷⁵
51. Among others, the Time of Gaza⁷⁶ reported on January 25, 2024 that the sniper forces of the defendants killed two children while one of them was waving a white flag. There are also several reports,⁷⁷ pictures, and witness statements⁷⁸ sustaining this claim. On the same day, the defendants killed other Palestinians who were waiting for food aid at the UN shelter.⁷⁹
52. One cannot speak of incidents when it happens this often. Seeing the fact that also on January 29, 2024 the forces of the defendants have shot several bullets at a group of Palestinians who were holding their hands up and waving a white flag. One innocent man was killed during this arbitrary shooting.⁸⁰ This killing is recorded on video.⁸¹ The defendants have admitted to this crime.⁸²
53. The proofs of systematic killing and imprisonment of innocent Palestinians are piling up. On February 1, 2024, the bodies of 30 bound and executed Palestinians were found at Gaza school after the armed forces of the defendant left.⁸³ Witnesses told Al Jazeera that the victims were tortured before being murdered and place in plastic bags while the bags were zip-tied with tags containing Hebrew writing.⁸⁴

⁷⁴ <https://www.ohchr.org/en/press-briefing-notes/2024/01/gaza-report-ground>

⁷⁵ <https://www.voanews.com/a/un-accuses-israel-of-detaining-mistreating-thousands-of-palestinians-/7447577.html>

⁷⁶ <https://x.com/Timesofgaza/status/1750553748269658404?s=20>

⁷⁷ https://www.reddit.com/r/LateStageCapitalism/comments/19fcv7u/israeli_snipers_shot_and_killed_two_brothers_in/

<https://www.middleeasteye.net/live-blog/live-blog-update/israeli-snipers-execute-two-brothers-holding-white-flag?nid=337456&topic=Israel-Palestine%2520war&fid=499286>

⁷⁸ https://www.instagram.com/reel/C2sIO4-NET_/?utm_source=ig_web_copy_link

⁷⁹ <https://electronicintifada.net/blogs/maureen-clare-murphy/israeli-fire-kills-palestinians-waiting-food-aid-and-un-shelter>

⁸⁰ <https://apnews.com/article/israel-hamas-gaza-war-palestinians-white-flag-10565fbedd6de793a9b118e5dec59647>

⁸¹ <https://www.youtube.com/watch?v=Bpql6mCKLpQ>

⁸² <https://abcnews.go.com/International/wireStory/palestinian-killed-group-waving-white-flag-israel-106767092>

⁸³ <https://aje.io/lhm6ot>

https://www.youtube.com/watch?v=jl0h7c_UZv4

<https://aje.io/1a82jc>

⁸⁴ <https://www.commondreams.org/news/israel-executions>



54. On February 2, 2024, released Palestinian prisoners accused the armed forces of the defendants of torturing⁸⁵ and humiliating them while in the custody of the mentioned forces.⁸⁶ The victims stated that they spent the first three days of their imprisonment without food or water and that they were beaten harshly. One of the victims is a 70-year-old man who is not likely to be a Hamas militant. The fact that he and the other prisoners are released proves that they are not members of Hamas, which means that they should not have been arrested. The victims stated that the reason for their imprisonment was because the force of the defendants wanted to get information about the tunnels (which are allegedly used by Hamas). Nothing shows that these imprisoned victims had any information about the tunnels.
55. Petrol station surveillance footage captured on February 2, 2024, show Israeli soldiers assaulting the station's worker.⁸⁷ Palestinian shopkeeper describes this as 'daily' abuse by Israeli soldiers.⁸⁸ This incident has been admitted by the defendants, adding that *"The incident is under investigation"*.⁸⁹
56. The statement of 95-year-old army reservist Ezra Yachin provides a compelling glimpse into the morality of the Israeli forces. Filmed on October 14, 2023, he declares while talking about Palestinians, 'These animals can no longer live.' He further calls on Israeli troops to target families, children, and Hamas fighters in Gaza.⁹⁰ And, of course, to this can be added the many videos of Israeli soldiers who have filmed themselves mocking Palestinians and posting it on social media⁹¹ as they continue their offensive in Gaza.⁹²
57. CNN reported⁹³ on January 20, 2024 that at least 16 cemeteries in Gaza have been desecrated by Israeli forces. The supporting satellite imagery and videos evidence further proves that the defendants have no respect for the living and the dead Palestinians at all.⁹⁴

C.3 Attacks on refugee camp

58. The crimes committed by the defendants keep piling up. After all, not only have they attacked and killed innocent journalists and UN-staff, they have also attacked refugee camps killing many civilians who had fled from the war. The Guardian reported already on October 31, 2023⁹⁵ regarding a strike by the defendants on a refugee camp in Gaza, killing

⁸⁵ https://www.instagram.com/p/C2R_jtoKXnq/?utm_source=ig_web_copy_link

⁸⁶ <https://aje.io/hi0xyi>

⁸⁷ <https://www.middleeastmonitor.com/20231231-petrol-station-surveillance-footage-captured-israeli-soldiers-assaulting-the-stations-worker/>

⁸⁸ <https://aje.io/cm5y6d>

⁸⁹ https://www.timesofisrael.com/liveblog_entry/idf-probes-footage-showing-troops-kicking-stomping-on-palestinian-gas-station-worker/

⁹⁰ <https://aje.io/sqtp99>

⁹¹ https://www.instagram.com/p/C2S5BoRKkBd/?utm_source=ig_web_copy_link

https://www.instagram.com/reel/C2Df8qCrey7/?utm_source=ig_web_copy_link

⁹² <https://aje.io/gnjrw5>

⁹³ <https://www.cnn.com/2024/01/20/middleeast/israel-gaza-cemeteries-desecrated-investigation-intl-cmd>

⁹⁴ <https://aje.io/g5c9aq>

⁹⁵ <https://www.theguardian.com/world/2023/oct/31/dozens-killed-after-israeli-airstrikes-on-gaza-refugee-camp>



at least 50 civilians and injuring more than 150 others. On the night of December 21, 2023 the Nuseirat Regugee Camp was attacked⁹⁶ by the defendants, murdering more than 20 civilians. “*Mass casualties have been reported following strikes on the Jabalia and Nuseirat refugee camps on December 18, 2023. Israeli artillery shelling targeted multiple residences in the Shujayea, Tuffah and Daraj neighbourhoods in Gaza City*” reported Aljazira⁹⁷ and Saudi Gazette on December 18, 2023.⁹⁸ Another attack on December 25, 2023, led to the murder of 90 civilians⁹⁹ at the hands of the defendants.

C.4 Starvation is being utilized in Gaza

59. While on December 21, 2023 the Integrated Food Security Phase Classification (IPC),¹⁰⁰ which is backed by the United Nations, and one week later the UNICEF, on December 29, 2023,¹⁰¹ reported that 2.3 million people in Palestine are facing crisis levels of hunger and that the risk of famine is increasing each day¹⁰², the defendants were busy with (direct and/or indirectly) blocking the supply of food, water and medicines to Palestine.¹⁰³ On December 5, 2023 CNN reported¹⁰⁴ that the defendants have destroyed the neighbourhood’s Al-Baraka bakery in the Deir al-Balah, one of the few bakeries still standing in the Strip. On the same day Action Against Hunger has declared that “*There is virtually no food left*” in Gaza and has warned of starvation if food supply chains collapse in Gaza.¹⁰⁵

C.5 Achievement of the attacks by the defendants

60. The defendants have stated many times that they are not targeting civilians,¹⁰⁶ that the goal of the defendants is to destroy Hamas. Nonetheless the Israeli President has suggested that Palestinian civilians in Gaza are legitimate targets to achieve that goal.¹⁰⁷

61. On January 21, 2024 the Wall Street Journal published¹⁰⁸ that the U.S. Intelligence agencies estimate that the defendants have killed (only) 20% to 30% of Hamas’s

⁹⁶ <https://prc.org.uk/en/news/6061>

⁹⁷ <https://aje.io/7n1q6g>

⁹⁸ <https://www.saudigazette.com.sa/article/638811>

⁹⁹ <https://www.bbc.com/news/world-middle-east-67749557>

<https://nos.nl/collectie/13959/video/2502759-lichamen-geborgen-na-luchtaanval-op-vluchtelingenkamp-in-gaza>

<https://www.radio.gov.pk/18-12-2023/israeli-strikes-on-jabalia-refugee-camp-kill-90>

<https://aje.io/5v9s6s>

¹⁰⁰ <https://www.ipcinfo.org/ipc-country-analysis/details-map/en/c/1156749/>

¹⁰¹ <https://reliefweb.int/report/occupied-palestinian-territory/unicef-state-palestine-humanitarian-situation-report-no-12-escalation-21-27-december-2023>

¹⁰² <https://aje.io/v2yr5n>

¹⁰³ <https://apnews.com/article/israel-hamas-war-news-11-17-2023-1811384fac6394329dd71e3aaf461eb5>
<https://www.hrw.org/news/2023/10/30/gazas-blocked-relief>

¹⁰⁴ <https://edition.cnn.com/2023/12/05/middleeast/gaza-bakery-hunger-israel-hamas-war-intl/index.html>

¹⁰⁵ <https://www.newarab.com/news/no-food-left-gaza-faces-starvation-supplies-cut>

¹⁰⁶ <https://www.aa.com.tr/en/middle-east/israel-not-targeting-civilians-in-gaza-army-spokesperson/3038338>

¹⁰⁷ <https://www.youtube.com/watch?v=UgoUq69NZ30>

<https://news.yahoo.com/israeli-president-says-no-innocent-154330724.html?>

¹⁰⁸ <https://www.wsj.com/world/middle-east/hamas-toll-thus-far-falls-short-of-israels-war-aims-u-s-says-d1c43164>



fighters.¹⁰⁹ With an estimation of a total capacity of Hamas of 20,000 to 25,000 fighters, this would thus mean that the defendant have killed – until now – more than 27,000 innocent men, women and children and injured another 66,000 for, at the most, the elimination of 5,000 to 7,500 Hamas fighters. In other words, the total of innocent victims is 93,000 while the defendants have been able to eliminate only (with the highest estimation) 5,000 to 7,500 Hamas fighters.

62. Nearly 70% of Gaza's 439,000 homes and about half of its buildings have been damaged or destroyed.¹¹⁰ At least 346 schools in Gaza have been destroyed or damaged and 625,000 children are out of school.¹¹¹ An ancient harbour dating back to 800 BC, a mosque that was home to rare manuscripts and one of the world's oldest Christian monasteries are just a few of at least 195 heritage sites that have been destroyed or damaged since Israel's war on Gaza began on October 7 according to an NGO documenting war damage on cultural sites.¹¹² The UNCTAD reported that ***"As a result of the military operation, economic activity across all productive sectors in Gaza ground to a halt, except for minimum health and food services provided under conditions of severe water, fuel and electricity shortages. (...) The Gaza Strip, with its small area and a rapidly expanding population, faces significant developmental challenges, exacerbated by the fact that half of its people are children."***¹¹³

C.6 Israel's controversial use of weapons in Gaza

63. The ongoing Israel's bombardment of Gaza since October 7, 2023, has been one of the deadliest in recent history of mankind.
64. The defendants have been accused of using 'dirty' bombs on Gaza. On December 28, 2024, the defendants admitted the use of improper munitions¹¹⁴ adding that *"The type of munition did not match the nature of the attack [on Maghazi refugee camp, on December 25, 2023] causing extensive collateral damage which could have been avoided"*.
65. CNN reported on December 14, 2023, based on US intelligence assessments that nearly half of the Israeli munitions dropped on Gaza are imprecise 'dumb bombs'.¹¹⁵
66. Generously provided to the defendants for its war on Gaza by the United States, the Bunker bombs (BLU-109 bombs) are designed to penetrate hardened structures before exploding. *"This level of weaponry has been used by the US before, but mainly in open areas. To do so in a densely populated area can only lead to one thing – high casualties."* Al Jazeera reported on December 29, 2023.¹¹⁶ *"Many people are now questioning in*

¹⁰⁹ <https://nypost.com/2024/01/21/news/israel-has-only-killed-20-30-of-hamas-terrorists-us-says/>

¹¹⁰ <https://www.wsj.com/world/middle-east/gaza-destruction-bombing-israel-aa528542>
<https://www.bbc.com/news/world-middle-east-68006607>

¹¹¹ <https://aje.io/ei72yl>

¹¹² <https://aje.io/bs98dd>

¹¹³ https://unctad.org/publication/preliminary-assessment-economic-impact-destruction-gaza-and-prospects-economic-recovery#anchor_download

¹¹⁴ <https://aje.io/vpkg2d>

¹¹⁵ <https://edition.cnn.com/2023/12/13/politics/intelligence-assessment-dumb-bombs-israel-gaza/index.html>

¹¹⁶ <https://aje.io/cb8byi>



Congress whether continuing to give these “bunker bombs” is a good idea and also calling for more transparency,” Al Jazeera’s Heidi Zhou-Castro said.

67. An investigation by Amnesty International, released on December 5, 2023,¹¹⁷ has found that US-made Joint Direct Attack Munitions (JDAM) were used by the Israeli military in two, deadly, unlawful air strikes on homes full of civilians in the occupied Gaza Strip.
68. And of course, the Defendants have used White Phosphorus¹¹⁸ bombs. Human Rights Watch said it had verified footage taken in Lebanon and Gaza, showing multiple uses of artillery-fired white phosphorus over the Gaza City port and two rural locations along the Israel-Lebanon border.¹¹⁹ Human Rights Watch reminds that the use of the chemical in populated areas violates legal obligation to avoid civilian casualties.¹²⁰

D. THE RELEVANT LAWS AND REGULATIONS

69. As mentioned earlier, the State Israel and Palestine are both full members of the *Geneva Convention Relative To The Protection Of Civilian Persons In The Time Of War of August 12, 1949* (further referred to as: *Geneva Convention*, which means that they are bound to its rules. Article 2 to 6 of that Geneva Convention determines that it applies to all cases of declared war or of any other armed conflict which may arise between the States, even if the state of war is not recognized by one of them. The article 2 explicitly mentions that the Geneva Convention also apply to all cases of partial or total occupation of the territory of a State.
70. In this case, it is undisputed that Palestine is occupied by Israel, which is under the leadership of the two defendants. Additionally, Israel has openly declared war against Hamas¹²¹ which is a political and a militant party of Palestine.
71. In my judgement, article 33 and 34 of the Geneva Convention are two of the most important breached articles. In it, it is stated that “*No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited. Pillage is prohibited. Reprisals against protected persons and their property are prohibited.*” and additionally, that “*The taking of hostages is prohibited.*”
72. Article 3 of the Geneva Convention is also relevant due to the attacks on civilians, wounded and medical staff. It determines that the aforementioned conflicting parties shall be bound to apply, as a minimum, the following:

¹¹⁷

¹¹⁸ <https://aje.io/3l7pf9>

¹¹⁹ <https://www.hrw.org/news/2023/10/12/israel-white-phosphorus-used-gaza-lebanon>
<https://www.aa.com.tr/en/middle-east/israel-used-white-phosphorus-in-military-operation-gaza-lebanon-hrw/3017767>

¹²⁰ <https://aje.io/rbxdan>

¹²¹ <https://edition.cnn.com/2023/10/08/middleeast/israel-gaza-attack-hostages-response-intl-hnk/index.html>
<https://www.voanews.com/a/israel-officially-declares-war-on-hamas-after-surprise-attack-/7301836.html>



(1) *“Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, **shall in all circumstances be treated humanely, without any adverse distinction** founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.
To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:*

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;*
- (b) taking of hostages;*
- (c) outrages upon personal dignity, in particular humiliating and degrading treatment;*
- (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.*

(2) The wounded and sick shall be collected and cared for.” (Bold, MT)

73. In this case, in particular, Article 5 and 18 of the Geneva Convention are interesting in regard to the illegal arrest of the Palestinians as they state respectively:

Article 5: “Where, in the territory of a Party to the conflict, the latter is satisfied that an individual protected person is definitely suspected of or engaged in activities hostile to the security of the State, such individual person shall not be entitled to claim such rights and privileges under the present Convention as would, if exercised in the favour of such individual person, be prejudicial to the security of such State.”

Article 18: “Civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict.”

Notwithstanding this last provision, the defendants are claiming that their attacks are justified because the targeted (Hamas) members are operating from protected facilities, such as medical facilities and schools. This positioning – according to the defendants – would lead to the loss of protection of the protected persons working there who are however not suspected of or engaged in activities hostile to the security of Israel.

74. At the same time, article 8 viewed in context with article 47 of the Geneva Convention states that the protected persons can in *“no circumstances renounce”* the rights secured to them which should generally mean that the protected status of those persons will remain at all time, unless they actively take part into the fighting.

75. *“The wounded and sick, as well as the infirm, and expectant mothers, shall be the object of particular protection and respect.”*, further specifies article 16 of the Geneva Convention while the defendant have ordered the elimination, although it has happened under their command, of wounded in hospitals and ambulances.



76. As mentioned above, the Article 19 of the Geneva Convention determine that the protected status of the protected persons will end in case of harmful acts to the enemy while:
“The fact that sick or wounded members of the armed forces are nursed in these hospitals, or the presence of small arms and ammunition taken from such combatants and not yet handed to the proper service, shall not be considered to be acts harmful to the enemy.”
77. Article 20 and 21 of the Geneva Convention extend the protection of Article 19 to the *“Persons regularly and solely engaged in the operation and administration of civilian hospitals, including the personnel engaged in the search for, removal and transporting of and caring for wounded and sick civilians”* respectively *“Convoys and vehicles [...] conveying wounded and sick civilians.”*
78. Furthermore, in this context, article 24 of the Geneva Convention is important as it compels the defendants to ensure that children under fifteen, who are orphaned or are separated from their families as a result of the war, are not left to their own resources, and that their maintenance, the exercise of their religion and their education are facilitated in all circumstances.
79. In relation to the abovementioned witness statements of prisoners, article 27 of the Geneva Convention is significant in that it guaranties that *“Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.”* and that *“Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.”* Moreover, article 31 states that *“No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.”*
80. And of course, article 28 of the Geneva Convention has stated that *“The presence of a protected person may not be used to render certain points or areas immune from military operations”*. But despite what the defendants have claimed, no factual evidence is brought forward in support of this claim.
81. Seeing the previously stated facts and the order of the defendants to evacuate some part of Gaza, article 49 of the Geneva Convention can be at stake. It affirms that *“Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.”*, for which this article have made some exceptions in case *“the security of the population or imperative military reasons so demand”* an evacuation. The same article forbids the deportation or transfer by the Occupying Power, of parts of its own civilian population into the territory it occupies.
82. In view of the culturally inherited buildings or statues that have been destroyed, article 53 of the Geneva Convention is at stake where it states that *“Any destruction by the Occupying*



Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where, such destruction is rendered absolutely necessary by military operations.”

83. In view of the destroyed medical facilities and the blackout of hospitals due to the depletion of fuel, article 56 of the Geneva Convention becomes at risk of being breached as it requires that *“To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties.”*

84. To the question of whether any part of the Geneva Convention is breached, the article 147 of that convention will be of interest. It clearly states that *“Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or wilfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.”*

E. THE LEGAL ARGUMENTS

85. To my professional legal judgment, the defendants have breached all, if not the most, of the cited above articles of the Geneva Convention.

86. It is important to emphasise that, based on article 51 of UN Charter and the customary international law,¹²² any State, thus, of course, also Israel, has the right to defend itself against any aggression from inside or outside its territory. This right is undisputed yet does not indemnify the State and its leaders of their obligations. The right of a State to defend itself does not affect the obligation that a State has.

87. It is also a fact that Israel has illegally occupied Palestine for many decades while the Palestinians are suppressed by Israel, detained (illegally) or even killed. Nevertheless, none of these can or could be a justification for attacking civilians, as Hamas did on October 7, 2023. As I have mentioned, no reason could be a justification for direct or sole attacks on civilians. The lack of any justification for an act of terror is crucial – also in this case – because, based on international humanitarian and war law, all States have agreed that there are some humanitarian lines that simply cannot be crossed. If one would expect that the horrible suffering and oppression of one group could lead to a defensive act from that group against the innocent civilians of the oppressor, we will factually throw away our

¹²² <https://globaljustice.queenslaw.ca/news/the-crime-of-aggression-and-pre-emptory-self-defence>



International humanitarian law and accept that civilians can be targeted by parties to any conflict. No State has declared its willingness to do so, Israel included.. In fact, Israel has stated many times that it will obey and follow international laws.

88. The lack of any exceptions for targeting civilians is perhaps more important if one looks at the statements of the defendants regarding the reason why, according to them, they are 'allowed' to injure and kill men, women, and children. The defendants have continuously stated that they are only attacking Hamas fighters, while by doing that, civilians will be injured and killed as a consequence of warfare. Simplifying this argument, the defendants are saying, in fact, that the killed and injured civilians, but also the protected persons and facilities, as mentioned in the Geneva Convention, are collateral damages inherent to warfare.

89. But, at the same time, the Geneva Convention has put certain obligations on the defendants, which are mandatory to follow. Exceptions to that, if any, are mentioned in the convention and besides those, there is no other exception allowed.

E.1 Disproportionality of the attacks by the defendants

90. The law of armed conflict (LOAC) permits States to carry out attacks against military objectives and persons with the knowledge that civilians will or may be killed, provided the attack is consistent with the requirements of the principle of proportionality. Of course, the LOAC principle of distinction prohibits attacks directed against civilians. This means that it is unlawful to intentionally target civilians. Civilians, however, may thus be *incidentally* harmed or killed in attacks directed at military objectives. Attacks against military objects or persons are thus prohibited if the said attacks carry a disproportionate risk of injury to civilian or civilian objects when compared to the military advantage. So, intentionally harming civilians is, without a doubt, prohibited, but in my judgment, the foreseeable disproportionate killing and harming of civilians is also prohibited. After all, the main rule is that even, in war, civilians should be protected and that their well-being can only be disregarded in case military advantages are objectively seen as (much) more valuable. As Charles Trumbull - the Legal Adviser for the U.S. Mission to the United Nations and Other International Organizations in Geneva – has stated¹²³ one cannot make a distinction between innocent and non-innocent civilians who, according to one party, somehow helps the military. Thus, quoting Trumbull, “*the principle of proportionality implicitly authorizes the knowing or foreseeable (but not intentional) killing of civilians in certain circumstances.*”

91. The principle of proportionality is recognized by the International Court of Justice (ICJ) in its judgment of June 27, 1986, in the case Concerning Military and Paramilitary Activities In And Against Nicaragua¹²⁴ (paragraph 149), and resembles and is probably the fundament of the Doctrine of Double Effect (DDE), which is used to determine whether collateral damage is justified. But, as Anne Schwenkenbecher has stated,¹²⁵ “*the DDE in its traditional form must be amended, or at least be interpreted more strictly, so that it sets*

¹²³ <https://lieber.westpoint.edu/collateral-damage-innocent-bystanders-war/>

¹²⁴ <https://www.icj-cij.org/public/files/case-related/70/070-19860627-JUD-01-00-EN.pdf>

¹²⁵ Anne Schwenkenbecher (2014) Collateral Damage and the Principle of Due Care, Journal of Military Ethics, 13:1, 94-105, DOI: 10.1080/15027570.2014.910015



high standards of due care and entails a positive commitment to saving civilian lives and avoiding incidental harm as much as possible.” The due care obligation of the State dictates that the well-being of civilians should have priority unless the military achievement with a specific attack would objectively be deemed as ‘higher’.

92. While the defendants seem to have eliminated 20% to 30% of the likely 20,000 to 25,000 fighters of Hamas, thus between 5,000 and 7,500 fighters, it is important to put these numbers in context of the civilian casualties. According to the Commissioner-General of the UNRWA chief,¹²⁶ there have been more than 100,000 civilians killed, injured or missed (of which 12,000 children who have been murdered), and more than 1.8 million people¹²⁷ (of the 2.3 million population) has been displaced (most of them several times over), 360,000 residential units, 386 educational facilities damaged, 221 places of worship, 13 of 35 hospitals and 122 ambulances destroyed or damaged.¹²⁸ When faced with these numbers, one can objectively conclude that military achievement by the defendant is absolutely disproportional.
93. In case the defendants are of the opinion that this is not the case and that article 28 of the Geneva Convention is applicable, it is on them to prove that 1) the mentioned article 28 is applicable and show proof of that, and 2) that in the events that the mentioned article is applicable, why should the military achievements carry more weight than the 100,000 heavily harmed or killed civilians, and 3) why could the same effect not be reached by other, less harmful to civilians, way(s). Anyhow, the situation calls for an investigation due to the apparent breach of Article 3 of the Geneva Convention.

E.2 The tipping point from self-defence to active attack and strikes: The Crime of aggression against the nation of Palestine and its innocent people

94. As mentioned above, any nation has the right to defend itself against any aggression or attack. This means that Israel has the right to defend its territory and its population. However, there is a certain point where defence ends, and the defender becomes the attacker and the aggressor.
95. The defendants have exceeded their right of self-defence in this case. After all, the Hamas attacks were on October 7, 2023 while today, February 7, 2024, there have been no attacks from Hamas towards Israel. If there was any attack from Hamas, it was as a result of the (current) attacks of the defendants.
96. The right to self-defence of the defendants ceased as soon as the Hamas attacks of October 7, 2023 came to an end. Any action that the defendant has taken after that, such as bombing Gaza, eliminating Hamas fighters, destroying Hamas infrastructure and tunnels, cannot be recognized as self-defence. Killing Hamas fighters or destroying its infrastructures to defuse Hamas from attacks in future is nothing else than attacks, and thus aggression, conducted with the sole purpose of hindering the necessity for self-defence by

¹²⁶ <https://www.middleeasteye.net/live-blog/live-blog-update/un-chief-around-100000-killed-wounded-or-missing-gaza>

¹²⁷ <https://iranpress.com/-unrwa-chief-says-about-100-000-palestinians-killed--wounded-or-missing-in-gaza>

¹²⁸ <https://aje.io/c5ei7w?update=2680792>



the defendants in the future. Surely, one cannot speak of self-defence when Hamas has ended its attacks. After all, defence can only be against an attack.

97. As far as the defendants would claim that they have attacked Palestine as an act of pre-emptive self-defence, arguing that if they did not act pre-emptively, Hamas would attack again (quoting here Israeli President Isaac Herzog when he said on October 17, 2023: *“When you have a missile in your goddamn kitchen and you want to shoot it at me, am I allowed to defend myself?”*¹²⁹ claiming that Hamas was using civilian facilities to continue their attacks on Israel), it would be an empty claim which cannot stand legally. After all, not only have the defendants not sustained their claim with any evidence at all, but the other side of the coin is that if, in this (specific) case, the defendants would have the right of pre-emptive self-defence, that would indicate that thus this right also belongs to Palestine and its people. I will continue on this subject later on.
98. Pre-emptive self-defence occurs when a state uses force to halt a particular tangible course of action. This action is perceived by the state as something that will shortly evolve into an armed attack against it.¹³⁰ The right of pre-emptive self-defence is internationally disputed. However, the British and the US recognised this right,¹³¹ although as long as only they are the ones who can use it. After all, the US claimed this right to strike Soviet Union missile sites in Cuba during the Cuban Missile Crisis in 1962,¹³² but denied that the Soviet Union had the right to strike American missile sites in Turkey, although those were active and meant for attacking the Soviet Union (if it had come to that).¹³³
99. As far as this right is recognised in international law, it is undisputed that pre-emptive self-defence can only be lawful if there is a “necessity of self-defence” that the situation is “instant, overwhelming, leaving no choice of means, and no moment for deliberation.”¹³⁴ However, the ICJ has decided in its judgment of December 19, 2005, in the Case Concerning Armed Activities on the Territory of the Congo (“Armed Activities”)¹³⁵ that pre-emptory self-defence is not a right of a state:

“148. The prohibition against the use of force is a cornerstone of the United Nations Charter. Article 2, paragraph 4, of the Charter requires that :

“All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political

¹²⁹ [https://news.yahoo.com/israeli-president-says-no-innocent-154330724.html?](https://news.yahoo.com/israeli-president-says-no-innocent-154330724.html?ref=sec)

¹³⁰ Marc Weller, *The Oxford Handbook of the Use of Force in International Law*, 2015, page 662, <https://opil.ouplaw.com/display/10.1093/law/9780199673049.001.0001/law-9780199673049>
Andrew Clapham and Paola Gaeta, *The Oxford Handbook of International Law in Armed Conflict*, 2014, page 561;
<https://academic.oup.com/edited-volume/43487>

¹³¹ Webster & United States Department of State, *The Diplomatic and Official Papers of Daniel Webster*, While Secretary of State, 1848, p.110; Crawford, 2019, p. 724

¹³² Murray Colin Alder, *The Inherent Right of Self-Defence in International Law*, 2013, pp. 127-9

¹³³ Murray Colin Alder, *The Inherent Right of Self-Defence in International Law*, 2013, pp. 133-4

¹³⁴ Adler, 2013, pp. 44-3

¹³⁵ <https://www.icj-cij.org/public/files/case-related/116/116-20051219-JUD-01-00-EN.pdf>



independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.”

Article 51 of the Charter may justify a use of force in self-defence only within the strict confines there laid down. It does not allow the use of force by a State to protect perceived security interests beyond these parameters. Other means are available to a concerned State, including, in particular, recourse to the Security Council.

149. The Court has found that, from 7 August 1998 onwards, Uganda engaged in the use of force for purposes and in locations for which it had no consent whatever. The Court has also found that the events attested to by Uganda did not justify recourse to the use of force in self-defence”

100. Looking at the judgment of June 27, 1986, in the case Concerning Military and Paramilitary Activities In And Against Nicaragua¹³⁶, in which the ICJ has pointed out that it “expresses no view on [...] the issue of the lawfulness of a response to the imminent threat of armed attack”, and the above-mentioned case Concerning Armed Activities on the Territory of the Congo, one can clearly see that the ICJ has bounded the borders of self-defence to the letter of the text of Article 51 of the Charter.
101. Pre-emptive self-defence should be distinct from interceptive self-defence,¹³⁷ which occurs when a state uses force to obstruct an armed attack that has already been launched but has not yet physically arrived at its target. It is undisputed that Israel has the right of interceptive self-defence in case Hamas was attacking Israel *at that moment*. However, when the Hamas attacks had ended, so did the right of Israel to (interceptive) self-defence. After all, if there is no attack, there cannot be a defence.
102. Yet, if Israel had sustainable information that would point out to an imminent (second) attack by Hamas, based on anticipatory self-defence, it would be lawful to attack Hamas and to prevent the imminent attack. After all, the United Nations General Assembly report of the High-Level Panel on Threats, Challenges and Change of December 2, 2004 (A/59/565)¹³⁸ recognised that “(...) *a threatened State, according to long-established international law, can take military action as long as the threatened attack is imminent, no other means would deflect it and the action is proportionate.*” In this case, there is no evidence that Hamas had planned another attack in addition to the attack of October 7, 2023. If that would be the case, and if the defendant had intelligence about the whom and the where of the planned attack, they would have the right to strike first to prevent the attack and casualties on the Israeli side. This is not the situation in this case.
103. Whether or not the defendant has the right of pre-emptive self-defence can even be disregarded from the current arguments. After all, what the defendant also claiming is the

¹³⁶ <https://www.icj-cij.org/public/files/case-related/70/070-19860627-JUD-01-00-EN.pdf>

¹³⁷ Andrew Clapham and Paola Gaeta, *The Oxford Handbook of International Law in Armed Conflict*, 2014, <https://academic.oup.com/edited-volume/43487>

¹³⁸ <https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/CPR%20A%2059%20565.pdf>



right of defence for any possible future attacks by Hamas, which is nothing else than preventive self-defence. However, preventive self-defence¹³⁹ should be differed from the right of self-defence or even Pre-emptive self-defence. After all, the defendants have stated many times that they want the total elimination of Hamas fighters so that it cannot attack them in the future. This is, by definition, a preventive measure, and any “*anticipatory self-defence has no legal basis under current international law.*”¹⁴⁰ Prior to the current case, in other cases, past German leaders have tried to use preventive self-defence as a legal defence but failed. On trial at the Nuremberg Tribunal, they attempted to use preventive self-defence but not only did the Tribunal reject this defence, it also categorised Germany’s use of force in Norway as an “aggressive war”.¹⁴¹

104. This all leads to the conclusion that the right of self-defence of the defendants ended as soon as the Hamas attack of October 7, 2023, ceased and the perpetrators left the site. I am even willing to accept that if the perpetrators had fled to Gaza and the defendants had knowledge about their hideout, it would have been justifiable if the defendant had struck. However, the self-defence of the defendants has flipped to actively attacking Gaza, Palestine and its innocent civilians anyway at the moment that the defendants invaded Gaza with (military) troops and vehicles and occupied Gaza. There was no longer an imminent threat to the defendants, but nevertheless, the defendants decided to attack and invade Gaza and to use force and violence against the Palestinians solely because they wanted to eliminate Hamas fighters so that they could prevent any future attacks against themselves.
105. What the defendants misrecognise is the fact that Hamas attacked them in the first place because of the occupation of Israel in Palestine over the past decades, colonising Palestinian territory, oppressing the Palestinians and arbitrarily arresting and/or killing them, including women and children. By expending the invasion and the occupation, murdering even more innocent men, women and children, destroying more than 80% of Gaza and expelling 1.8 million innocent Palestinians from their homes, the defendants are not preventing any future attack by Hamas. They are providing the injured and orphaned Palestinians a moral reason for resisting the oppressor (the defendants) thus making sure that the support for Hamas and its attacks increases.
106. Anyhow, from the moment that the self-defence of the defendants has flipped to attack on and invasion and occupation of Gaza, article 51 of the Charter is breached and/or the crime of Aggression, as meant in The Statute of Rome accrued.
107. At the beginning of this paragraph, I have pointed out that if the defendant would have the right of pre-emptive self-defence, the Palestinians would have the same right as well. If that

¹³⁹ V.A.V. Andreias, Anticipatory self-defense in international law: legal or just a construct for using force?, ANR 267515,

<https://arno.uvt.nl/show.cgi?fid=122935>

¹⁴⁰ V.A.V. Andreias, Anticipatory self-defense in international law: legal or just a construct for using force?, ANR 267515, Page 37

¹⁴¹ Andrew Clapham and Paola Gaeta, The Oxford Handbook of International Law in Armed Conflict, 2014, pp. 561-2

<https://academic.oup.com/edited-volume/43487>



would be the case, it would also mean that it is justified for the Palestinians to pre-emptively act in self-defence themselves against the occupying power who arrest and even kills Palestinians quite arbitrarily or detained them for many years without sustainable evidence or a trial. If the right of pre-emptive self-defence would mean that a party could attack the other as prevention of future attacks, that would thus mean that Palestine – and thus Hamas, as the military department of the official political party of Palestine – has the right to pre-emptively attack the defendants, which they did on October 7, 2023. Although many civilians were killed by that attack, that would– if one should follow the claims of the defendants - be collateral damage of the attack. Hamas could then even claim that the attack was executed badly due to which (many, if not solely) civilians have lost their lives. This is why pre-emptive self-defence cannot be accepted as a legal defence for an attack.

E.3 Collective punishment and the breach of article 33 of the Geneva Convention

108. Also, Article 33 of the Geneva Convention is breached for the defendants have publicly declared that they “have released all the restraints” and that Palestinians “*will regret this moment*”. They also added that “*Gaza will never go back to what it was*” and that the “*evil city*” and its ‘animal’ citizens will be punished due to the Hamas attack on October 7, 2023, by cutting electricity, food, fuel and water. In addition to this Israeli President Isaac Herzog said on October 17, 2023 “*It is an entire nation out there that is responsible, (...) It is not true this rhetoric about civilians not being aware, not involved. It’s absolutely not true. They could have risen up. They could have fought against that evil regime which took over Gaza in a coup d’etat.*”¹⁴²
109. The president of Israel, the prime minister of Israel and the defence minister of Israel have publicly admitted that they have “*released all the restrictions*” so that the “*entire nation*” of Palestine who “*is responsible*” for Hamas and its attack on October 7, 2023 can be punished by “*cutting electricity, food, fuel and water*”. Adding that the ‘civilians are aware and involved and had not “*risen up*” and “*fought against that evil regime*”, which is Hamas. Just to avoid any confusion, the former Israeli Deputy Foreign Minister Danny Ayalon, said during an interview with UpFront, Al Jazeera,¹⁴³ that Israel “*will do everything for the Gazan people, once and now we demand the immediate surrender, unconditional surrender of Hamas (...) believe me, everting will be restored for Gaza.*” Luckily Ofir Gendelman, a spokesman for defendant Netanyahu, told reporters on December 7, 2023, that “*The war in Gaza can end on the condition that Hamas leaders surrender themselves to the Israeli army and the prisoners are returned,*”¹⁴⁴ As an additional guarantee, to avoid any misunderstanding, the official Israeli government spokesperson, Eylon Levy, confirmed on December 28, 2023, this at Sky News¹⁴⁵ saying that the war “*will end tomorrow*” if Hamas surrenders
110. The defendants have thus made it clear that civilians, understood in article 3 of the Geneva Convention as persons taking no active part in the hostilities, will have to suffer because of the attack that was carried out by Hamas on October 7, 2023. These protected

¹⁴² <https://news.yahoo.com/israeli-president-says-no-innocent-154330724.html?>

¹⁴³ <https://www.youtube.com/watch?v=UgoUq69NZ30>

¹⁴⁴ <https://www.aa.com.tr/en/middle-east/gaza-war-to-end-with-hamas-surrender-israel/3076229>

¹⁴⁵ <https://www.youtube.com/watch?v=irAtxi1P8EM>



persons are thus punished collectively by refusing them electricity, food, fuel (and thus indirectly medical care) and water for an offence that Hamas military members have committed. This thus leads to a direct violation of Article 33 of the Geneva Convention.

111. That the defendants are punishing the Palestinian people for the attack of Hamas on October 7, 2024, and that starvation is also used as a method of warfare is, according to Human Rights Watch,¹⁴⁶ proven by the public statements of officials involved in military operations:

On October 9, Defense Minister Yoav Gallant said: “We are imposing a complete siege on [Gaza]. No electricity, no food, no water, no fuel – everything is closed. We are fighting human animals and we must act accordingly.”¹⁴⁷

National Security Minister Itamar Ben-Gvir said in a tweet on October 17, “So long as Hamas does not release the hostages – the only thing that should enter Gaza is hundreds of tons of air force explosives – not an ounce of humanitarian aid.”¹⁴⁸

Energy Minister Israel Katz, who reported that he ordered the cuts to electricity and water, said on October 11:¹⁴⁹

“For years, we have given Gaza electricity, water, and fuel. Instead of a thank you, they sent thousands of human animals to butcher, murder, rape and kidnap babies, women and elderly people. This is why we have decided to cut off the supply of water, electricity and fuel, and now, the local power plant has collapsed, and there is no electricity in Gaza. We will keep holding a tight siege until the Hamas threat is lifted from Israel and the world. What has been will be no more.”

Katz said on October 12:¹⁵⁰

“Humanitarian aid to Gaza? Not a switch will be flicked on, not a valve will be opened, not a fuel truck will enter until the Israeli hostages come home. Humanitarian for humanitarian. Let no one lecture us about morality.”

He said on October 16:¹⁵¹

“I supported the agreement between PM [Prime Minister] Netanyahu and President Biden to supply water to the southern Gaza Strip because it aligned with Israeli interests too. I am vehemently opposed to lifting the blockade and letting goods into Gaza for humanitarian reasons. Our commitment is to the families of the murdered

¹⁴⁶ <https://www.hrw.org/news/2023/12/18/israel-starvation-used-weapon-war-gaza>

¹⁴⁷ https://www.timesofisrael.com/liveblog_entry/defense-minister-announces-complete-siege-of-gaza-no-power-food-or-fuel/

¹⁴⁸ <https://x.com/itamarbengvir/status/1714340519487176791?s=20>

¹⁴⁹ https://x.com/Israel_katz/status/171208312227909116?s=20

¹⁵⁰ https://x.com/Israel_katz/status/1712356130377113904?s=20

¹⁵¹ https://x.com/Israel_katz/status/1713807517816348906?s=20



and to the kidnapped hostages – not Hamas murderers and the people who helped them.”

On November 4,¹⁵² Finance Minister Bezalel Smotrich declared that no fuel must enter Gaza “under any circumstances.” He later called Israel’s war cabinet’s decision to permit small amounts to enter the strip “a grave mistake”¹⁵³ and said that it “stop this scandal immediately and prevent fuel from coming into the Strip,” as reported by the Jerusalem Post.¹⁵⁴

In a video¹⁵⁵ posted online on November 4, Col. Yogev Bar-Shesht, deputy head of the Civil Administration, said in an interview from inside Gaza, “Whoever returns here, if they return here after, will find scorched earth. No houses, no agriculture, no nothing. They have no future.”

On November 24, in a televised interview with CNN, Mark Regev, senior adviser to Israeli Prime Minister Benjamin Netanyahu, said¹⁵⁶ that Israel was depriving Gaza of fuel since October 7 to strengthen Israel’s position when it came to negotiating with Hamas on release of hostages. “Had we done so [allowed the fuel in] ... we would never have gotten our hostages out,” he said.

On December 1, the Defense Ministry’s coordinator of government activities in the territories, Maj. Gen. Ghassan Alian, said¹⁵⁷ that the entry of fuel and aid to Gaza was halted after Hamas violated the conditions of the ceasefire agreement. His office confirmed his statement in response to a Times of Israel query, stating: “After the Hamas terror organization violated the agreement and in addition fired at Israel, the entry of humanitarian aid was stopped in the manner stipulated in the agreement.”

Other officials have since October 7 called for the limited entry of humanitarian aid to Gaza, saying that doing so serves Israel’s military aims.

Prime Minister Netanyahu on December 5 answered a question about Israel potentially losing leverage against Hamas if it allowed more humanitarian aid into Gaza, saying: “The war efforts are supported by the humanitarian effort ... this is

¹⁵² https://www.mako.co.il/news-military/6361323ddea5a810/Article-bd24ac5125b9b81027.htm?utm_source=Facebook&utm_medium=NewsChannelPage&partner=NewsChannelFacebook

¹⁵³ <https://www.timesofisrael.com/in-shift-israel-agrees-to-regularly-let-fuel-into-gaza-drawing-outrage-in-coalition/>

¹⁵⁴ <https://www.jpost.com/breaking-news/article-773745>

¹⁵⁵ <https://www.youtube.com/watch?v=fqEj3DzadiM>

¹⁵⁶ <https://edition.cnn.com/videos/world/2023/10/24/mark-regev-israel-gaza-fuel-collins-vpx.cnn>

¹⁵⁷ <https://www.timesofisrael.com/israel-said-to-tell-neighbors-and-us-of-plans-to-create-gaza-buffer-zone-after-war/>



because we follow laws of war because we know that if there would be a collapse – diseases, pandemics, and groundwater infections – it will stop the fighting.”¹⁵⁸

Defense Minister Gallant said: “We’re required to allow the humanitarian minimum to allow for the military pressure to continue.”¹⁵⁹

112. If there was any doubts left, the personal statement of defendant Netanyahu on October 18, 2023, made it totally clear that *“Israel will not allow any humanitarian aid from its territory to the Gaza Strip as long as our hostages are not returned.”¹⁶⁰*

113. So, the entire Palestinian nation has to suffer because of an attack by Hamas, which is considered to be a terrorist organisation. In other words, the civilian and innocent Palestinians are being punished for the act of a terrorist organisation.

114. His Highness, King Abdullah II, King of Jordan, has called the collective punishment of the innocent Palestinian people a flagrant violation of international humanitarian law and war crimes¹⁶¹ with which I agree.

E.4 Inhuman treatment, breach of articles 31.a and c, 27, 31 and 42, 43, and 78 of the Geneva Convention

115. Article 27 of the Geneva Convention guarantees that protected persons like civilians shall be treated humanely “at all times”. It emphasises that they shall especially be protected against “all acts of violence or threats thereof”. Referring back to the witness statement mentioning the events of the apartment in Heikh Radwan (and ref in footnote the page and paragraph), 15 innocent Palestinians, including at least one child, have been tortured and, after that, executed. The mentioned article stipulates that captured civilians should be treated with respect for their person, their family, and their customs honoured. And yet, the available videos of the bodies reveal how the hands of the victims were tied up on their backs while they were stripped naked and that they have been shot in their back. This is all done, according to the witness, in front of the other family members. This is a clear violation of the article 27, but also of article 31, which prohibits physical or moral coercion against protected persons.

116. The witness statements of released Palestinian prisoners of February 2, 2024, indicate that they have been tortured and humiliated while detained by the defendants’ troops. Above that, no food or water was provided to them for the first three days, which is an undisputed violation of all the human rights conventions and, thus, also a violation of Article 27 of the Geneva Convention. These statements are supported by the Euro-Mediterranean

¹⁵⁸ https://edition.cnn.com/middleeast/live-news/israel-hamas-war-gaza-news-12-05-23/h_0aa15fb04f5492f5b393125b91363fb6

¹⁵⁹ <https://www.haaretz.com/israel-news/2023-12-05/ty-article-live/idf-gearing-up-for-ground-offensive-in-southern-gaza-hamas-says-death-toll-tops-15-800/0000018c-37f5-d11b-a3bf-f7fd02e20000#1790955734>

¹⁶⁰ <https://aje.io/w1oae3>

¹⁶¹ <https://jordantimes.com/news/local/king-cairo-summit-peace-demands-immediate-stop-war-gaza-protection-civilians>

<https://english.aawsat.com/arab-world/4602486-jordan%E2%80%99s-king-rejects-%E2%80%98collective-punishment%E2%80%99-gaza-residents>



Human Rights Monitor who stated that nearly 9,000 Palestinians are detained by the defendants. He added that shortly after their arrest, detainees have been subjected to systematic abuse such as being stripped of their clothes, handcuffed, blindfolded, severely beaten, harassed, sexually assaulted, deprived of sleep food, water, and basic hygiene, and degraded in front of cameras.

117. The inhuman treatment of the man at the petrol station on February 2, 2024, and the threat to him by holding him at gunpoint, is admitted by the defendants. The violation of articles 27 and 31 of the Geneva Convention is thus a given fact in this regard.
118. The High Commissioner for Human Rights and its office have also accused the defendants of detaining thousands of Palestinians, in secret, which would mean a breach of articles 42, 43 and/or 78 of the Geneva Convention. After all, if the defendants are of the opinion that the detention of thousands of Palestinians is required for the security of Israel, they will be obligated to prove that this detention is “*absolutely necessary*” or at least “*necessary, for imperative reasons*” – as required respectively by article 42 and article 78 – which the defendants have neglected to do until now. But even if the absolute necessity of the detention is shown, the detainee should still have rights as mentioned in Article 43, which has not been the case. According to the OHCHR, the Palestinians are just detained between 30 to 55 days and are released after that. The fact that the prisoners are released within 30 to 55 days indicates that the detention is not necessary but that it is meant to obtain information from them, which is a violation of Article 31 of the Geneva Convention. This is an indication that is backed by witness statements of February 2, 2024, stating that civilians have been detained and ill-treated because the defendants, through their forces, wanted to get information about the Hamas tunnels. This is clearly is a violation of article 27 of the Geneva Convention.
119. That the defendants do not take article 27 seriously is corroborated by the witness statement of a Palestinian woman on January 4, 2024, indicating that she has been threatened by the forces of the defendants with being raped and killed, including her family members and burning of her house. These acts are a direct violation because, as that article demands, “*women shall be especially protected against any attack on their honour, in particular against rape and any form of indecent assault*”
120. Article 27 is also breached by the fact that prisoners, who have been stripped naked and blindfolded, are (not literally) dragged through the streets. This shows that the defendants have not respected the prisoners, their honour and their manners and customs. After all, in the eyes of the cultural and religious customs of Muslim Palestinian men, being stripped naked is extremely shameful and also against their religion, which requires that men should cover themselves in public. The fact that they are photographed makes the lack of respect even more palpable and thus constitutes the violation of the mentioned article.
121. A similar violation and humiliation is done on January 4, 2024, during a raid on a refugee camp in Tolkarem in the West Bank. This seems to be a systematic manner of treating prisoners by the defendants. Indeed, a leaked picture of a naked, striped and badly injured Palestinian man with his hands tied behind his back was leaked on February 2, 2024. In the picture an armed Israeli soldier can be seen standing in front of the prisoner in a quite



intimidating way. Even the US State Department spokesman Vedant Patel said the footage was “deeply troubling”.¹⁶²

122. The events described above form a violation of Article 3, paragraph 1, under the Geneva Convention, for the actions against the mentioned victims can be qualified as “*outrages upon personal dignity*” and “*humiliating and degrading treatment*”. Even more disturbing is that the photo was uploaded to Instagram by Yosee Gamzoo, who appears to be the featured soldier. This shows that the soldiers of the defendants have not only had a ‘green light’ from the defendants to treat the Palestinians cruelly but are also enjoying it and filming/photographing it as a way of mocking and humiliating the Palestinians. After all, there are many self-made videos of soldiers of the defendants in which they are factually mocking the suffering of the Palestinians.

E5. The systematic killing of Palestinians, a Crime Against humanity and a violation of Article 3.1.a of the Geneva Convention

123. Furthermore, the defendants are accused of systematic killing of Palestinians, which is a direct violation of Article 3 of the Geneva Convention. Euro-Mediterranean Human Rights Monitor has backed this accusation (**footnote 60**). An accusation that is based on the recent finding of a mass grave on February 1, 2024, where 30 bodies of murdered Palestinians were found. The hands of all of them were tied up behind their back, and they were blindfolded and shot dead. Witnesses have stated that the victims have been tortured before they were murdered.

124. This latest finding, added to the fact that on December 19, 2023, 15 other innocent Palestinians were tortured, blindfolded and murdered by shot from the back, makes that there are sufficient reasons to believe in the systematic killing of (civilian) Palestinians and anyhow sufficient reason to investigate this accusation. Especially seeing the proof of the murder of a Palestinian man on January 16, 2024, in the West Bank for an attempt to open a barrier on the road, while that man formed no threat to anybody at that moment. The same can be said about the murder of a 17-year-old Palestinian boy on January 10, 2024,¹⁶³ and the shooting of two others who were injured. Two other Palestinians were murdered by the Israeli troops on December 15, 2023,¹⁶⁴ without any reason. Only three days later, on December 18, 2023, the Israeli military murdered 9 Palestinians,¹⁶⁵ including children, while they were sleeping in a school. Such crimes are not new to the defendants, for the same crimes have been committed even before the attack of Hamas on October 7, 2023. CNN reported on August 22, 2023, that a Palestinian man was shot from behind by Israeli security forces¹⁶⁶ for no legitimate reason.

¹⁶² https://www.timesofisrael.com/liveblog_entry/state-department-says-footage-of-idf-soldier-standing-over-bound-palestinian-is-troubling/

¹⁶³ <https://www.theguardian.com/world/2024/jan/10/west-bank-videos-show-israeli-troops-killing-teenager-and-driving-over-mans-body>

¹⁶⁴ <https://www.pbs.org/newshour/politics/security-footage-shows-israeli-forces-killing-2-palestinians-at-close-range-the-army-opens-a-probe>

¹⁶⁵ <https://www.reuters.com/world/middle-east/gaza-grandfather-describes-killing-his-family-by-israeli-soldiers-2023-12-18/>

¹⁶⁶ <https://edition.cnn.com/2023/08/22/middleeast/palestinian-shot-behind-west-bank-israeli-forces-intl-hnk/index.html>



125. Witnesses and photos indicate that the Israeli forces shot and killed two unarmed children who held a white flag on January 25, 2024. They also shot at a group of men holding a white flag as well, killing one of them. This is admitted by the defendants. On the same day, other civilians were murdered by the defendant's troops while they were waiting for UN aid.
126. The available video footage and the witness testimonies indicate the killing of civilians, who were not armed at any moment, nor have they been a threat to anyone, as a systematic way of action by the military forces of the defendants. Seeing the fact that the defendant has indicated that they are fighting 'animals' and that they are acting 'accordingly,' one can conclude that the defendant has instructed their forces to murder and kill at their discretion. A concerning conclusion since the culpable lack of instruction to act according to article 3 of the Geneva Convention can be held against them.
127. The lack of value for the lives of the Palestinians appears once again in the video which shows that the Israeli forces have used a civilian Palestinian man as a human shield, while the defendants have accused Hamas of the same.
128. Seeing the fact that the killing/murdering of unarmed and nonthreatening civilians happens as a systematic attack directed against civilians, and seeing the fact that these crimes have been happening even before the Hamas' attacks of October 7, 2023, the defendants should be held responsible for Crimes Against Humanity, beside the breach of the above mentioned articles of the Geneva Convention. A call that was also made by Amnesty International to the ICC on February 5, 2024,¹⁶⁷ when they reminded the world of "*Israeli security forces' use of unlawful force during law-enforcement operations*".

E.6 Attacks on Medical Facilities & Staff, including ambulances, violation of articles 18, 20, 21, and 56 of the Geneva Convention

129. In this complaint, it is mentioned as a matter of fact that the forces under the command of the defendants are occupying Gaza (and the Wet Bank). The above-mentioned facts, such as refusing to provide the main hospital of Gaza with fuel or (after lots of international pressure) providing the fuel quite late, can simply be considered a violation of Article 56 of the Geneva Convention. After all, that article determines that "*To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory.*"
130. Refusing to provide fuel to the hospitals while knowing that, due to their attacks, tens of thousands of civilians are injured can in no circumstances be considered to be "the fullest extent of the means available to it". The violation of Article 56 of the mentioned convention can thus not be disputed. Seeing the fact that the lack of medical facilities has increased the suffering and the death of the Palestinian people (including children and babies), this refusal of cooperation should be considered a Crime Against Humanity as well. Articles 3 of the Geneva Convention demands that "*The wounded and sick shall be collected and cared*

¹⁶⁷ <https://www.amnesty.org.uk/press-releases/israelopt-israel-has-unleashed-wave-unlawful-attacks-palestinians-west-bank-new>



for” while article 16 demands that they “*shall be the object of particular protection and respect*”. Yet, by intentionally creating circumstances in which the sick and the wounded cannot be cared for, it is not only a violation of the mentioned articles 3 and 56 but also results in a Crime Against Humanity.

131. The intentional attacking and destroying of hospitals,¹⁶⁸ medical facilities, and ambulances lead not only to the conclusion that articles 18 and 21 are breached, but increase the severity of the Crimes Against Humanity. After all, the defendants are knowingly and willingly creating a situation in which medical facilities are destroyed, and if not (fully) destroyed, become not or insufficiently useable. This leads to a situation where the injured (caused by them) cannot get help and/or sufficient and/or timely medical care. Sure enough, the defendants have admitted to attacking hospitals, medical facilities, and ambulances. However, the defendants have claimed that those facilities have been used for military purposes, which has caused them to lose their protected status as intended in Article 19 of the Geneva Convention. Defendant Herzog claimed publicly on October 17, 2023, that the civilians, including the medical facilities, have missiles that are meant for shooting at him in their ‘*goddamn kitchen*’ and that he then has the right to defend himself by attacking those facilities. A claim that, to this date, is sustained with no evidence at all. Based on Article 19, second paragraph, of the Geneva Convention, the only fact that perhaps some, if any, arms and ammunition (taken from combatants and not yet handed to the proper service) were found in the medical facilities is not considered to be as ‘acts harmful to the enemy’ due to which the medical facilities or its staff and the sick would lose its protected status.

132. Seeing the lack of any proof for that claim and the lack of any indication that substantiate that claim, one can only conclude that all the attacks on the medical facilities, including ambulances and medical staff (with a casualty of 147 dead),¹⁶⁹ have been in violation of articles 18, 20 and 21 of the mentioned convention.

133. The same can be said for storming the hospitals¹⁷⁰ and the arrest, according to a report in the British Medical Journal on January 25, 2024, of 212 medical workers,¹⁷¹ including the director of Al-Shifa Hospital.¹⁷² According to the same report of the British Medical Journal there have been at least 743 incidents of “*violence against or obstruction of access to healthcare*”, which leads to 743 violation of the mentioned articles and crimes.

E. 6.1 Undercover attack on the hospital, right of the wounded and sick, violation of articles 16 and 3 of the Geneva Convention

134. The fact that the Israeli forces attacked the Jenin Hospital in the West Bank on January 30, 2023, dressed like civilians, doctors and women, is proof that the defendants have no respect for any international law and their obligations. After all, although articles 3, sub 2 and 16 of the Geneva Convention explicitly aim at the protection of the wounded and the

¹⁶⁸ <https://edition.cnn.com/2023/12/13/middleeast/gaza-kamal-adwan-hospital-doctors-idf-intl/index.html>

¹⁶⁹ <https://www.bmj.com/content/384/bmj.q203>

¹⁷⁰ <https://www.theguardian.com/world/2024/jan/23/us-calls-on-israel-to-protect-staff-and-patients-as-military-reportedly-storms-gaza-hospital>

¹⁷¹ <https://www.middleeastmonitor.com/20231206-israel-army-arrests-35-medical-workers-in-gaza/>

¹⁷² <https://www.aljazeera.com/news/2023/11/23/al-shifa-hospital-director-arrested-by-israeli-army-in-gaza>



sick, and that article 19 mentions that the presence of arms and ammunition will not annul the protected status of the hospital nor of the wounded, the forces of the defendants have attacked and killed 3 wounded Palestinians in the hospital while one of them was in hospital for more than 3 months.

135. This is a blatant violation of the Geneva Convention and should also be considered as a war crime.

136. The same can be said about bombing hospitals or forcing the evacuation of hospitals or other medical facilities.

E.7 Special care for children, especially under fifteen, violation of articles 17, 23, 24, and 50 of the Geneva Convention

137. Article 50 of the Geneva Convention demands that in case *“the local institutions be inadequate for the purpose, the Occupying Power shall make arrangements for the maintenance and education, if possible by persons of their own nationality, language and religion, of children who are orphaned or separated from their parents as a result of the war and who cannot be adequately cared for by a near relative or friend.”*

138. Even though Article 23 demands a free passage of all aid, especially for children below 15 years old, the defendants have refused that. Only after severe international pressure, the defendant allowed conditionally the free pass of aid through Egypt, yet not from Israel. Although Article 23 does not demand free passage through the territory of a party, one can argue whether denying it and thus preventing the quick reach of aid to the civilian victims would not be a violation of the mentioned article. After all, indirect obstruction of the free passage can, under certain circumstances, become the same as denying the free passage.

139. Seeing the fact that Gaza was governed by Hamas and the defendants have made sure that Hamas couldn't govern at the time, article 24 of the Geneva Convention can become interesting. After all, seeing the fact that thousands of children have lost their parents while Gaza didn't have a workable government, the defendants should have *“take the necessary measures to ensure that children under fifteen, who are orphaned or are separated from their families as a result of the war, are not left to their own resources, and that their maintenance, the exercise of their religion and their education are facilitated in all circumstances.”* The defendants are accused of breaching this article as well. After all, they have not only taken no measures for the mentioned children, but they have even resisted the timely and sufficient aid to them. This claim is subtended by the report of Human Right Watch on December 18, 2023¹⁷³ that *“starvation is used as weapon of war in Gaza”* and that evidence indicates civilians deliberately are denied access to food and water.

E.8 Mass forcible transfers, violation of article 49 of the Geneva Convention

140. From October 7, 2023, the defendants have ordered¹⁷⁴ the transfer of the entire population of a part of Gaza (the north), 1.1 million people, to move to a different part (the

¹⁷³ <https://www.hrw.org/news/2023/12/18/israel-starvation-used-weapon-war-gaza>

¹⁷⁴ <https://aje.io/vtdnrh>



south).¹⁷⁵ If they did not, then those Protected Persons would be bombed or killed otherwise.

141. This implies a breach of Article 49 of the Geneva Convention. After all, that article forbids the mass forcible transfer of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, regardless of their motive. The defendant would claim that the security of the population demanded the transfer, which would be allowed according to the mentioned article. However, that article determines that in case of the necessity of the transfer for the purpose of the security of the population, the transfer/evacuation may not involve the displacement of protected persons outside the bounds of the occupied territory, except when for material reasons it would be impossible to avoid such displacement.

142. In case the defendants would argue that the order to the population was not of forcible nature, then I am of the opinion that in case the defendants are giving the population the choice¹⁷⁶ of evacuating within 24 hours or being killed, they in fact are forcing the population to move. The 'choice' between living or dying is not an actual choice and can only be interpreted as a forcible order.

143. Secondly, if the defendants would claim that the evacuation was for the safety of the population, and thus necessary and justified, because of material reasons, then the burden of proving this (last) point lies with them. But even if that would be the case the evacuation should not have been to outside the bounds of the occupied territory. If in this regard the defendants would claim that they have also occupied South Gaza, it would thus mean that the evacuation was not outside the bounds of the occupied territory. Yet for this claim of occupation of the entire Gaza would stand the defendants would have to explain why they have occupied the entirety of Gaza and why such an occupation should not be considered as the crime of Aggression.

144. My claim of illegal displacement of the population of Gaza is backed by the Norwegian Refugee Council¹⁷⁷ who shares the same view as I, as well as Dr. Mais Qandeel (a Senior Lecturer of International Law at Örebro University, Sweden, with a Ph.D. in international humanitarian law from the University of Fribourg, Switzerland).¹⁷⁸ This legal understanding of the facts is also shared at the UN when Ravina Shamdasani, a spokeswoman for the U.N. human rights office, said in a statement of October 17, 2023,¹⁷⁹ that the UN is *"concerned that this order combined with the imposition of a 'complete siege' on Gaza may not be considered as lawful temporary evacuation and would therefore amount to a forcible transfer of civilians – in breach of international law."*

¹⁷⁵ <https://nos.nl/l/2503765>

¹⁷⁶ <https://www.reuters.com/world/un-says-israeli-military-warns-11-mln-gazans-relocate-south-2023-10-13/>

¹⁷⁷ <https://www.nrc.no/news/2023/december/gaza-displacement/>

¹⁷⁸ <https://opiniojuris.org/2023/12/21/the-forcible-transfer-of-civilians-in-gaza-conditions-necessity-and-legality/>

¹⁷⁹ <https://www.ohchr.org/en/press-briefing-notes/2023/10/un-human-rights-has-grave-fears-about-toll-civilians-gaza>



145. This all means that there are sufficient reasons and facts for the accusation of the breach of article 49 of the Geneva Convention and, thus, more reason to investigate this matter.

E.9 Destruction of cultural inherited, a violation of article 53 of the Geneva Convention

146. Lastly, for this complaint, the defendants have also violated Article 53 of the Geneva Convention.

147. The Israeli army has targeted all national memorials and monuments throughout Palestinian cities, such as:¹⁸⁰

- (...) *the Mavi Marmara Martyrs Memorial in Gaza city's port on Nov. 16 [Over 13 years after the Israeli attack on the Mavi Marmara aid flotilla, Israeli forces have destroyed a monument built in Gaza to honour the victims.]*¹⁸¹
- (...) *the Jenin Horse sculpture in northern occupied West Bank, during a raid on the Jenin refugee camp on Oct. 30.*
- (...) *the entrance gate to the Jenin refugee camp known as the Victory Arch or Return Arch, which was of great significance to the Palestinian resistance groups in Jenin as well as a national symbol for the Palestinians in the camp. The entrance gate monument was built in honor of resistance fighters killed by the Israeli army.*
- (...) *the memorial to late Palestinian journalist Shireen Abu Akleh, which was located near the entrance to the Jenin refugee camp, where she was killed by the Israeli forces in May last year. The memorial was inaugurated on the first anniversary of her killing on May 11 this year.*
- *[the Tulkarem city's main memorial in the northern West Bank] (...) Israeli bulldozers razed to ground the monument to late Palestinian President Yasser Arafat, who died in 2004 under suspicion of being poisoned by Israel.*
- (...) *Other monuments and statues (...) demolished by the Israeli army in West Bank cities, including the Martyrs Monument in the Balata refugee camp in Nablus. The monument was built 20 years ago in memory of Palestinians from the camp killed by Israeli forces. (...)*

148. Furthermore, "*Troops of the Golani Brigade's 13th Battalion have captured the so-called Palestine Square in Gaza City's Shejaiya neighborhood, and destroyed a Hamas monument there commemorating a deadly attack on an armored personnel carrier during the 2014 Gaza War.*"¹⁸² The Yasser Arafat memorial was also destroyed by Israeli forces.¹⁸³ And it appears that even smaller monuments are not safe from the violent acts of the forces of the defendants. "*[A] memorial erected in the town of Qarawet Bani Hasan,*

¹⁸⁰ <https://www.aa.com.tr/en/middle-east/israeli-army-destroys-all-national-memorials-monuments-in-palestinian-cities/3063687>

¹⁸¹ <https://www.trtworld.com/turkiye/israeli-forces-destroy-mavi-marmara-memorial-in-gaza-15850253>

¹⁸² https://www.timesofisrael.com/liveblog_entry/golani-soldiers-destroy-gaza-statue-commemorating-deadly-2014-attack-on-apc/

¹⁸³ <https://aje.io/j1as2y>



west of Salfit, as a tribute to slain Palestinian Ahmed Assi, who was killed by Israeli colonists on December 2nd.” was destroyed by the Israeli soldiers on December 8, 2023.¹⁸⁴

149. The Museums Association reported¹⁸⁵ on January 30, 2024, that *“In addition to the enormous human toll of the Israel-Gaza war, reports indicate that a significant part of the Palestinian territory’s cultural heritage, including museums, built heritage and archaeological sites, has been damaged or destroyed in the four months since Israel began its offensive in response to the 7 October Hamas attacks. (...) As of 25 January, Unesco says it has verified damage to 22 sites in Gaza since the war began, including five religious sites, 10 buildings of historical and/or artistic interest, two depositories of moveable cultural property, one monument, one museum and three archaeological sites.”*

150. Nearly 70% of Gaza’s 439,000 homes and about half of its buildings have been damaged or destroyed.¹⁸⁶ At least 346 schools in Gaza have been destroyed or damaged and 625,000 children are out of school.¹⁸⁷ An ancient harbour dating back to 800 BC, a mosque that was home to rare manuscripts, and one of the world’s oldest Christian monasteries are just a few of at least 195 heritage sites that have been destroyed or damaged since Israel’s war on Gaza began on October 7, according to an NGO documenting war damage on cultural sites.¹⁸⁸

151. Al Jazeera published¹⁸⁹ on January 14, 2024, a list of many cultural heritage sites that were destroyed by the forces of the defendants and called this a ‘cultural genocide’. The 1954 Hague Convention,¹⁹⁰ agreed to by Palestinians and Israelis, as well as article 53 of the Geneva Convention, is supposed to safeguard landmarks from the ravages of war. Nevertheless, the defendants have undertaken no action at all to secure the safeguard of these landmarks. Contrary to that, it seems that the soldiers of the defendants are not only not instructed to safeguard the monuments (etc.) but that the destruction is used as a systematic war tactic against the Palestinians. After all, wiping out the cultural heritage of a people is one of the crimes that South Africa has accused Israel of.

152. Seeing the fact that the defendants have no justification for the aforementioned destruction, one can only conclude that article 53 of the Geneva Convention is violated and that the defendants are guilty of war crimes as a result of that.

E.10 Unlawful use of white phosphorus and/or ammunition

¹⁸⁴ <https://english.wafa.ps/Pages/Details/139936>

¹⁸⁵ <https://www.museumsassociation.org/museums-journal/news/2024/01/widescale-destruction-of-cultural-heritage-in-gaza/#>

¹⁸⁶ <https://www.wsj.com/world/middle-east/gaza-destruction-bombing-israel-aa528542>
<https://www.bbc.com/news/world-middle-east-68006607>

¹⁸⁷ <https://aje.io/ei72yl>

¹⁸⁸ <https://aje.io/bs98dd>

¹⁸⁹ <https://aje.io/bs98dd>

¹⁹⁰ <https://en.unesco.org/protecting-heritage/convention-and-protocols/1954-convention>



153. As a matter of fact, it is known that the defendants have used white phosphorus during the attack on Gaza as well as in Lebanon. Amnesty International reported¹⁹¹ that it has evidence¹⁹² that the use of white phosphorus in Gaza and in Lebanon was unlawful.

154. Based on the mentioned report of Amnesty International and

- other reports¹⁹³ in the media regarding the use of white phosphorus in Gaza, as well as
- the confession¹⁹⁴ of the defendants that they have used improper munitions,
- the information from the US intelligence that nearly half of the used munitions on Gaza are imprecise 'dumb bombs',¹⁹⁵
- the publication¹⁹⁶ of Human Rights Watch indicating the routinely illegal use of rubber bullets, as well as plastic-coated metal bullets and live ammunition, resulting in deaths and injuries to civilians.
- The report¹⁹⁷ of Human Rights Watch indicating the use of White Phosphorus in Gaza between December 27, 2008 and January 18, 2009.
- Reports¹⁹⁸ on the use of White Phosphorus against Palestinians in 2009
- The reports¹⁹⁹ of accusation of using 'expanding bullets' designed to permanently maim Palestinian protesters on April 28, 2018,

one can conclude that there are heavy indications of the continual use of illegal ammunition by the defendants, which could lead to War Crimes and/or Crimes Against Humanity. The number of suspected use of illegal ammunition and the number of casualties and injuries justifies and demands an investigation of this matter.

E.11. Genocide

155. Seeing the fact that South Africa has started a procedure at the International Court of Justice (ICJ) accusing the State of Israel of Genocide against the Palestinians and the fact that the Court has decided to investigate the matter, while it has ordered²⁰⁰ Israel – which is led by the defendants – to avoid Genocide and to document its actions and attacks, the defendants are herewith accused of being personally responsible for Genocide against the Palestinians.

156. After all, although the ICJ has not yet concluded that the State of Israel has committed Genocide, it has found sufficient reasons and facts to order that Israel should ensure that it

¹⁹¹ <https://www.amnesty.org/en/latest/news/2023/10/lebanon-evidence-of-israels-unlawful-use-of-white-phosphorus-in-southern-lebanon-as-cross-border-hostilities-escalate/>

¹⁹² <https://www.hrw.org/news/2023/10/12/israel-white-phosphorus-used-gaza-lebanon>

¹⁹³ <https://www.kompas.id/baca/english/2023/10/13/en-hrw-tuding-militer-israel-gunakan-senjata-fosfor>
<https://aje.io/qs9lcj>

<https://www.theguardian.com/world/2023/oct/13/israel-military-white-phosphorus-gaza-lebanon>

<https://aje.io/vpkg2d>

¹⁹⁴ <https://edition.cnn.com/2023/12/13/politics/intelligence-assessment-dumb-bombs-israel-gaza/index.html>

¹⁹⁵ <https://www.hrw.org/reports/2000/israel/isrlo00-04.htm>

¹⁹⁶ <https://www.hrw.org/reports/2000/israel/isrlo00-04.htm>

¹⁹⁷ <https://www.hrw.org/report/2009/03/25/rain-fire/israels-unlawful-use-white-phosphorus-gaza>

¹⁹⁸ <https://www.france24.com/en/20090114-israel-accused-using-illegal-weapons->

¹⁹⁹ <https://www.scmp.com/news/world/middle-east/article/2143812/israel-accused-using-expanding-bullets-designed-permanently?module=inline&pgtype=article>

²⁰⁰ <https://www.icj-cij.org/node/203454>



does not commit Genocide. This order would not have been necessary if there were no reasons that would back the accusation of Genocide. Also the Center for Constitutional Rights (CCR) is of the opinion that Israel, and thus the defendants as responsible for that State, have committed Genocide. It has published its analyses in this regard under the title '*Israel's Unfolding Crime of Genocide of the Palestinian People & U.S. Failure to Prevent and Complicity in Genocide*'²⁰¹ Following this, the CCR has filed²⁰² the lawsuit on behalf of the human rights organisation, Defence for Children against the US President on November 13, 204 for 'complicity' in Israel's 'genocide' in Gaza. Although the civil complaint was dismissed by the court, the court's decision²⁰³ still urged the US President and his colleagues to examine "the results of their unflinching support" for Israel, including its human rights implications.

157. Due to these reasons, I am of the opinion that the accusation against the defendants for committing Genocide is sustainable for investigation by the International Criminal Court (ICC). Especially seeing the fact that the Former ICC chief prosecutor, Luis Moreno Ocampo, has stated that Israel's siege of Gaza is a 'genocide'.²⁰⁴ The British Foreign Minister David Cameron, when asked if Israel could be "*vulnerable to a challenge*" from the ICC, has said on January 9, 2024, he is "*worried that Israel has taken action that might be in breach of international law*"²⁰⁵ which is in my opinion a politically correct way of saying that the defendants has breached the International Law.

158. Meanwhile, Mexico and Chile have also requested²⁰⁶ the ICC to look into possible crimes occurring in Gaza amidst the Israel-Hamas war.

F. CONCLUSION AND ITS CONSEQUENCES

159. Although the US Press Secretary, Karine Jean-Pierre, has stated that the US does not have "*any indications that there's deliberate effort to commit war crimes by the Israeli Defense Forces*",²⁰⁷ it seems that even the US is of the opinion that the defendants have committed war crimes, albeit unintended. However, although the facts and the evidence prove the contrary, the intention of the defendants can be disregarded in this matter. After all, one cannot claim a lack of intention in a case where different experts, states and the media have pointed out, from October 7, 2023, that the actions of the defendants are a violation of International Laws, all the while the defendants continue their actions.

160. In any case, to my professional judgment, there is overwhelming evidence and facts that prove that the defendants have committed:

²⁰¹ <https://ccrjustice.org/israel-s-unfolding-crime-genocide-palestinian-people-us-failure-prevent-and-complicity-genocide>

²⁰² https://ccrjustice.org/sites/default/files/attach/2023/11/Complaint_DCI-Pal-v-Biden_w.pdf

²⁰³ https://ccrjustice.org/sites/default/files/attach/2024/01/91_1-31-24_Order-granting-MTD_w.pdf

²⁰⁴ <https://aje.io/dklzri>

<https://www.commondreams.org/news/israeli-genocide>

²⁰⁵ <https://aje.io/3e2iuh>

²⁰⁶ <https://www.jurist.org/news/2024/01/mexico-chile-ask-international-criminal-court-to-investigate-possible-war-crimes-in-palestine/>

²⁰⁷ <https://www.whitehouse.gov/briefing-room/press-briefings/2024/01/19/press-briefing-by-press-secretary-karine-jean-pierre-and-nsc-coordinator-for-strategic-communications-john-kirby-40/>



- (a) Genocide due to the intention of the defendant to destroy Palestinians as a nation, state and culture;
- (b) Crimes against humanity due to systematic and widespread attacks on the civilian population of Palestine;
- (c) Breach of Geneva Conventions as explained above and
- (d) The Crime of aggression against the nation of Palestine and its innocent people;
by
 - I. *disproportional but yet intentional attacks* by the defendants on civilians, knowing that many civilians will be killed and many others will be injured (some of them, permanently), without any factual proof of the necessity of these attacks, which indicates the intended killing of as much Palestinians as possible;
 - II. *Collective punishment* of the entire Palestinian nation, in Gaza and the West Bank, for the attack of Hamas on October 7, 2023, whom the defendants claim to be a terrorist organisation, but yet hold the non-terrorists (the civilian Palestinians) accountable for their actions and make them suffer for it as well. Proof being, among others, the discovered mass grave with the tortured and executed Palestinians, and the discovery of the bodies of the tortured Palestinians executed from behind in front of their family;
 - III. *Inhuman treatment* of the Palestinians by terrorising the civilian population through
 - a. random, arbitrary and systematic killings without pursuing justice against the perpetrators;
 - b. illegal arrests (of adults and children) without any trial or legal charges;
 - c. humiliation, inhumane treatment, violence (and the threat of violence, rape and killing);
 - d. torture and abuse of civilians and (innocent) prisoners for the purpose of gathering information;
 - e. arbitrary destruction and takeover of the civilian's residences
 - f. attacks on refugee camps, despite the fact that those facilities are considered protected facilities, and the arrest of refugees inside the camps;
 - g. Actively assassinating wounded individuals in a hospital;
 - h. The demand of evacuating of 1.1 million Palestinians from north Gaza within 24 hours, failure of which would lead to being bombed and killed;
 - IV. *Attacks on Medical Facilities*, ambulances and staff as well as arrest without charges or a trial, and killing of medical staff, hindering that the wounded and the sick get sufficient and/or timely medical help;
 - V. Lack of special care for children, especially under fifteen;
 - VI. Destruction of cultural inheritance;
 - VII. Unlawful use of white phosphorus and ammunition;
 - VIII. Attacking and occupying Gaza and the West Bank (once again).

161. The crimes and their severity demand the immediate investigation and broad charges against the defendants and, at this stage, more importantly, to submit an application at the Pre-Trial Chamber of the International Criminal Court for them to issue arrest warrants against the defendants so that the continuance of the crimes can be prevented.



INTERNATIONAL LAW FIRM
TAHERI
AND ASSOCIATES

PROCESJURISTEN & -SPECIALISTEN

162. Seeing the fact that the defendants have already made more than 100,000 victims, including more than 27,000 who have lost their lives, I urge your Excellency to inform me within **14 days from the date of this complaint** whether you are willing to submit the application to the Pre-Trial Chamber or not.

163. Any further correspondence in this regarding can be submitted at my office at PO Box 5176, 2900 LT Capelle aan den IJssel, the Netherlands or through email at ██████████@lawfirmtaheri.com.

Your sincerely,

M. Taheri *LL.M*