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Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Situation of human rights in the Palestinian territories occupied since 1967**

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, in accordance with Human Rights Council resolution 5/1.

* [A/79/150](#).

** The present report was submitted after the deadline in order to reflect the most recent information.



Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese

Genocide as colonial erasure

Summary

In the present report, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, examines the unfolding horrors in the occupied Palestinian territory. While the wholesale destruction of Gaza continues unabated, other parts of the land have not been spared. The violence that Israel has unleashed against the Palestinians post-7 October is not happening in a vacuum, but is part of a long-term intentional, systematic, State-organized forced displacement and replacement of the Palestinians. This trajectory risks causing irreparable prejudice to the very existence of the Palestinian people in Palestine. Member States must intervene now to prevent new atrocities that will further scar human history.

I. Introduction

1. In March 2024, the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, Francesca Albanese, concluded that there were reasonable grounds to believe that Israel had committed acts of genocide in Gaza.¹ In the present report, the Special Rapporteur expands the analysis of the post-7 October 2023 violence against Gaza, which has spread to the West Bank, including East Jerusalem. She focuses on genocidal intent, contextualising the situation within a decades-long process of territorial expansion and ethnic cleansing aimed at liquidating the Palestinian presence in Palestine. She suggests that genocide should be seen as integral and instrumental to the aim of full Israeli colonization of Palestinian land while removing as many Palestinians as possible.

2. The present report is based on legal research and analysis, interviews with victims and witnesses, including in Jordan and Egypt, open-source information and input from experts and civil-society organizations. The Special Rapporteur, still refused access to the occupied Palestinian territory, stresses that Israel has no authority to bar fact-finding mechanisms from the territory that it illegally occupies. The persistent denial of access to United Nations mechanisms and investigators of the International Criminal Court (ICC) may constitute obstruction of justice, in defiance of the International Court of Justice (ICJ) order that Israel allow international investigators to enter Gaza and take measures to ensure the preservation of evidence.²

3. While the scale and nature of the ongoing Israeli assault against the Palestinians vary by area, the totality of the Israeli acts of destruction directed against the totality of the Palestinian people, with the aim of conquering the totality of the land of Palestine, is clearly identifiable. Patterns of violence against the group as a whole warrant the application of the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) in order to cease, prevent and punish genocide in the whole of the occupied Palestinian territory.

II. Legal framework and developments

4. In the present report, the Special Rapporteur relies on the legal framework considered in previous reports,³ including international humanitarian law, international human rights law, international criminal law and customary international law, in particular the Genocide Convention and the International Convention on the Suppression and Punishment of the Crime of Apartheid, together with relevant legal developments and jurisprudence.

5. Two important legal developments informed the present report. First, in its Advisory Opinion of July 2024, ICJ declared the prolonged presence of Israel in the whole of the Palestinian territory occupied since 1967, including its colony regime,⁴

¹ [A/HRC/55/73](#), para. 7.

² *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Order, 26 January 2024, *I.C.J. Reports 2024*, para. 86 (5); and *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Request for the Modification of the Order of 28 March 2024, Order, 24 May 2024, *I.C.J. Reports 2024*, para. 57 (2) (c).

³ [A/HRC/53/59](#), paras. 14–25; [A/HRC/55/73](#), paras. 15–20; and [A/HRC/49/87](#), paras. 19–34.

⁴ The French term “colonies” better reflects the colonization process than the euphemism “settlements” commonly used in English, see *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion, 19 July 2024, *I.C.J. Reports 2024*, para. 111.

as unlawful⁵ and aimed at annexation.⁶ It stated that Israeli annexation was designed to be permanent, creating “irreversible effects on the ground”,⁷ “undermin[ing] the integrity of the Palestinian people in the Occupied Palestinian Territory”⁸ and seeking to “acquire sovereignty over an occupied territory”.⁹

6. The Court recognized the violation of non-derogable norms prohibiting territorial acquisition by force,¹⁰ racial segregation and apartheid,¹¹ and protecting the right to self-determination of the Palestinian people,¹² concluding that the occupation constitutes an act of aggression, in all but name, deriving in part from its settler-colonial nature.¹³ It stressed the obligation to rapidly end the occupation, dismantle and evacuate the colonies, provide full reparation to Palestinian victims and allow the return of Palestinians displaced since 1967.¹⁴

7. Expanding on the *Wall* opinion,¹⁵ the Court rejected arguments that Israeli “security concerns” justify the occupation.¹⁶ The declared unlawfulness of the occupation vitiates claims of purported self-defence; the only lawful recourse available to Israel is its unconditional withdrawal from the whole of that territory.

8. Second, in *South Africa v. Israel*, the Court ordered provisional measures to prevent and/or stop acts of genocide.¹⁷ After recognizing, in January 2024, the existence of a “real and imminent risk [of] irreparable prejudice” to the rights of the Palestinians in Gaza under the Genocide Convention, the Court instructed Israel to “prevent the commission of all acts” outlined in the Convention.¹⁸ In March, the Court took notice of the worsening humanitarian crisis,¹⁹ and in May, recognizing an “exceptionally grave” risk in Rafah, it ordered Israel to “immediately halt its military

⁵ *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, 19 July 2024, I.C.J. Reports 2024*, paras. 155 and 261–264.

⁶ *Ibid.*, para. 173, 179 and 252.

⁷ *Ibid.*, para. 173.

⁸ *Ibid.*, para. 239.

⁹ *Ibid.*, para. 179.

¹⁰ *Ibid.*, paras. 179, 254 and 261–263; and United Nations Charter, Article 2 (4).

¹¹ *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, 19 July 2024, I.C.J. Reports 2024*, paras. 223–229.

¹² *Ibid.*, paras. 237–245, 256–257 and 261–262.

¹³ *Ibid.*, paras. 155 and 167–169. See also the following under *Advisory Opinion of 19 July 2024*, see Declaration of Judge Xue, para. 4; Separate Opinion of Judge Yusuf, paras. 2–4 and 12; and Separate Opinion of Judge Cleveland, para. 33.

¹⁴ *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, 19 July 2024, I.C.J. Reports 2024*, paras. 267–271, and 285 (4)–285 (6).

¹⁵ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, 9 July 2004, I.C.J. Reports 2004*, p. 136, para. 139.

¹⁶ *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, 19 July 2024, I.C.J. Reports 2024*, paras. 205, 254 and 263.

¹⁷ Eight States have formally intervened, see www.icj-cij.org/case/192/intervention.

¹⁸ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Order, 26 January 2024, I.C.J. Reports 2024*, para. 86 (1).

¹⁹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Order, 28 March 2024, I.C.J. Reports 2024*, paras. 21–22.

offensive”.²⁰ Despite this, Israel, and most other States, continue to disregard such orders,²¹ with arms continuing to flow to Israel.²²

III. The unfolding genocide as a “means to an end”

9. On 14 October 2023, after Israel ordered 1.1 million Palestinians to move south from northern Gaza in 24 hours – “one of the fastest mass displacements in history”²³ – the Special Rapporteur warned of the risk of deliberate mass ethnic cleansing.²⁴ This proved prescient. At least 90 per cent of Palestinians in Gaza have now been forcibly displaced – many more than 10 times²⁵ – amid calls from Israeli officials and others for Palestinians to leave and Israelis to “return to Gaza” and rebuild the colonies dismantled in 2005.²⁶

10. Meanwhile, violence has spread beyond Gaza, with Israeli forces and violent settlers having escalated patterns of ethnic cleansing and apartheid in the West Bank, including East Jerusalem.²⁷

11. High-ranking Israeli officials, ministers and religious leaders continue to encourage erasure and dispossession of Palestinians, setting new thresholds for acceptable violence against civilians. The Nakba, which has been ongoing since 1948, has been deliberately accelerated.²⁸

12. In the following sections, the Special Rapporteur examines critical developments on the ground, highlighting patterns of conduct that evidence an intent to employ genocidal acts as a means to ethnically cleanse all or parts of the occupied Palestinian territory.

²⁰ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Request for the Modification of the Order of 28 March 2024, Order, 24 May 2024, I.C.J. Reports 2024*, paras. 29 and 57 (2) (a).

²¹ See www.ohchr.org/en/statements/2024/09/un-experts-warn-international-order-knives-edge-urge-states-comply-icj-advisory; and www.ohchr.org/en/press-releases/2024/06/states-and-companies-must-end-arms-transfers-israel-immediately-or-risk.

²² *Alleged Breaches of Certain International Obligations in Respect of the Occupied Palestinian Territory (Nicaragua v. Germany), Order, 30 April 2024, I.C.J. Reports 2024*, paras. 22–24. Consider also, *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, 19 July 2024, I.C.J. Reports 2024*, para. 285 (7).

²³ A/HRC/56/CRP.4, para. 94.

²⁴ See www.ohchr.org/en/press-releases/2023/10/un-expert-warns-new-instance-mass-ethnic-cleansing-palestinians-calls.

²⁵ See www.unrwa.org/resources/reports/unrwa-situation-report-121-situation-gaza-strip-and-west-bank-including-east-jerusalem; and www.unrwa.org/resources/reports/unrwa-situation-report-125-situation-gaza-strip-and-west-bank-including-east-jerusalem.

²⁶ See www.timesofisrael.com/12-ministers-call-to-resettle-gaza-encourage-gazans-to-leave-at-jubilant-conference; www.economist.com/middle-east-and-africa/2024/08/27/israels-settlers-are-winning-unprecedented-power-from-the-war-in-gaza; www.nbcnews.com/news/world/right-wing-israeli-ministers-join-thousands-event-calling-countrys-res-rcna135863; <https://edition.cnn.com/2024/03/20/middleeast/israel-gaza-settlers-daniella-weiss/index.html>; www.aa.com.tr/en/middle-east/israel-s-ben-gvir-demands-resettlement-of-gaza-voluntary-migration-of-palestinians/3252890; and Nicola Perugini, “Settler colonial inversions: Israel’s ‘disengagement’ and the Gush Katif ‘Museum of Expulsion’ in Jerusalem”, *Settler Colonial Studies*, vol. 9, No. 1 (February 2019), pp. 44–45.

²⁷ See www.lemkininstitute.com/active-genocide-alert-1/israel-is-committing-genocide-across-palestine-active-genocide-alert-condemning-ongoing-violence-in-the-west-bank.

²⁸ Israeli Knesset Member, Ariel Kallner, available at <https://x.com/ArielKallner/status/1710769363119141268>, translated in www.newarab.com/analysis/erase-gaza-how-genocidal-rhetoric-normalised-israel.

A. Failure to cease and punish genocide in Gaza

13. Since the previous report of the Special Rapporteur (A/78/545), and despite the ICJ interventions, genocidal acts have proliferated. Nearly a year of scorched-earth assault has led to the calculated destruction of Gaza: the human, material and environmental cost is unquantifiable.²⁹

14. Since March 2024, Israel has killed 10,037 Palestinians and injured 21,767, with more than 93 massacres, bringing the reported totals to nearly 42,000 and 96,000 respectively, although figures from reliable sources are incomplete and may understate the magnitude of the casualties.³⁰ Aid distribution sites,³¹ tents,³² hospitals,³³ schools³⁴ and markets³⁵ have been repeatedly attacked through the indiscriminate use of aerial and sniper fire. At least 13,000 children, including more than 700 babies,³⁶ have been killed, many shot in the head and chest.³⁷ Approximately

²⁹ See www.reuters.com/world/middle-east/gazas-huge-reconstruction-challenge-key-facts-figures-2024-09-11/; and www.unep.org/news-and-stories/press-release/damage-gaza-causing-new-risks-human-health-and-long-term-recovery.

³⁰ See https://gaza-projections.org/gaza_projections_report.pdf; and [www.thelancet.com/journals/lancet/article/PIIS0140-6736\(24\)01169-3/fulltext](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(24)01169-3/fulltext).

³¹ See www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-130; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-131; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-140; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-144; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-146; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-147; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-149; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-159; www.ochaopt.org/content/humanitarian-situation-update-180-gaza-strip-west-bank; www.ochaopt.org/content/humanitarian-situation-update-181-gaza-strip; and <https://reliefweb.int/report/occupied-palestinian-territory/un-human-rights-office-opt-attacks-humanitarian-aid-distribution-system-enar>.

³² See www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-136; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-141; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-148; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-149; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-171; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-172; www.aljazeera.com/news/2024/5/28/at-least-21-killed-dozens-wounded-in-israeli-attacks-on-gazas-rafah; www.ochaopt.org/content/humanitarian-situation-update-182-gaza-strip; www.ochaopt.org/content/humanitarian-situation-update-185-gaza-strip; and www.ochaopt.org/content/humanitarian-situation-update-191-gaza-strip.

³³ See www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-131; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-144; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-149; www.ochaopt.org/content/humanitarian-situation-update-184-gaza-strip; and <https://airwars.org/civilian-casualties/ispt120524d-may-12-2024/>.

³⁴ See www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-155; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-152; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-171; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-166; www.ochaopt.org/content/humanitarian-situation-update-184-gaza-strip; www.ochaopt.org/content/humanitarian-situation-update-193-gaza-strip; www.ochaopt.org/content/humanitarian-situation-update-200-gaza-strip; and www.ochaopt.org/content/humanitarian-situation-update-199-gaza-strip.

³⁵ See www.ochaopt.org/content/humanitarian-situation-update-193-gaza-strip.

³⁶ See www.972mag.com/palestinian-infants-killed-gaza-2024/.

³⁷ See www.youtube.com/watch?v=yA7MeI65IIM; www.theguardian.com/world/2024/apr/02/gaza-palestinian-children-killed-idf-israel-war; and www.politico.com/news/magazine/2024/07/19/gaza-hospitals-surgeons-00167697.

22,500 Palestinians have sustained life-changing injuries.³⁸ By May, a further 10,000 people were estimated to be buried under the rubble,³⁹ including 4,000 children;⁴⁰ the voices of those trapped and dying are often audible. An uncertain number are forcibly disappeared by Israeli forces.⁴¹

15. The magnitude of destruction in Gaza has prompted allegations of domicide,⁴² urbicide,⁴³ scholasticide,⁴⁴ medicide,⁴⁵ cultural genocide⁴⁶ and ecocide.⁴⁷ Nearly 40 million tons of debris, including unexploded ordnance and human remains,⁴⁸ contaminate the ecosystem.⁴⁹ More than 140 temporary waste sites⁵⁰ and 340,000 tons of waste,⁵¹ untreated wastewater and sewage overflow⁵² contribute to the spread of diseases such as hepatitis A,⁵³ respiratory infections,⁵⁴ diarrhoea and skin diseases.⁵⁵ As Israeli leaders promised, Gaza has been made unfit for human life.⁵⁶

16. Continued bombardment of evacuees in purportedly designated “safe zones”⁵⁷ has continued to create hardship, terror and death.⁵⁸ Displaced people have been systematically chased down and targeted in shelters, including in United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) schools,

³⁸ See www.who.int/news/item/12-09-2024-who-analysis-highlights-vast-unmet-rehabilitation-needs-in-gaza/.

³⁹ See <https://news.un.org/en/story/2024/05/1149256>; and www.nytimes.com/2024/03/23/world/middleeast/gaza-missing-bodies-deaths.html.

⁴⁰ See www.savethechildren.org.uk/news/media-centre/press-releases/over-20000-children-estimated-to-be-lost-in-gaza.

⁴¹ See www.un.org/unispal/wp-content/uploads/2024/07/20240731-Thematic-report-Detention-context-Gaza-hostilities.pdf, paras. 56–57; and www.unrwa.org/sites/default/files/content/resources/summary_on_detention_and_alleged_ill_treatmentupdated.pdf.

⁴² See www.nytimes.com/interactive/2024/01/29/opinion/destruction-of-homes-crime-domicide.html; and www.ohchr.org/en/press-releases/2024/04/gaza-un-experts-deplore-use-purported-ai-commit-domicide-gaza-call.

⁴³ [A/HRC/55/73](https://www.unhcr.org/refugees/55/73), paras. 60–61; and <https://beiruturbanlab.com/en/Details/1977>.

⁴⁴ See www.ohchr.org/en/press-releases/2024/04/un-experts-deeply-concerned-over-scholasticide-gaza; and <https://theintercept.com/2024/02/09/deconstructed-gaza-university-education/>.

⁴⁵ Nicola Perugini and Neve Gordon, “‘Medicide’ in Gaza and international law: time for banning the bombing of hospitals”, Institute for Palestine Studies, No. 094, September 2024.

⁴⁶ See www.aljazeera.com/news/2024/1/14/a-cultural-genocide-which-of-gazas-heritage-sites-have-been-destroyed; and <https://jacobin.com/2024/03/israel-gaza-war-cultural-heritage>.

⁴⁷ See <https://forensic-architecture.org/investigation/ecocide-in-gaza>; and www.theguardian.com/environment/2024/mar/29/gaza-israel-palestinian-war-ecocide-environmental-destruction-pollution-rome-statute-war-crimes-aoc.

⁴⁸ See www.unep.org/resources/report/environmental-impact-conflict-gaza-preliminary-assessment-environmental-impacts, p. 7.

⁴⁹ *Ibid.*, pp. 32–36.

⁵⁰ See www.undp.org/papp/publications/undp/papps-emergency-response-solid-waste-management, p. 1.

⁵¹ See www.science.org/content/article/virus-causes-polio-has-been-found-gaza-here-s-why-grim-news.

⁵² See www.ohchr.org/en/press-releases/2023/11/israel-must-stop-using-water-weapon-war-un-expert.

⁵³ See <https://news.un.org/en/story/2024/08/1152791>.

⁵⁴ See www.emro.who.int/images/stories/Sitrep_-_issue_38.pdf, p. 3; and www.emro.who.int/images/stories/Sitrep_-_issue_24.pdf, p. 1.

⁵⁵ See www.emro.who.int/images/stories/Sitrep_-_issue_38.pdf, p. 3.

⁵⁶ [S/2024/419](https://www.un.org/press/docs/2024/419), enclosure I, paras. 6, 10 and 24; and enclosure II, para. 6.

⁵⁷ See www.aljazeera.com/opinions/2024/1/6/safe-zones-israels-technologies-of-genocide; and <https://forensic-architecture.org/investigation/humanitarian-violence-in-gaza>.

⁵⁸ See <https://news.un.org/en/story/2024/05/1149951>; <https://news.un.org/en/story/2024/08/1153406>; <https://news.un.org/en/story/2024/07/1152601>; www.nrc.no/news/2024/august/gaza-new-israeli-orders-force-thousands-in-deir-al-balah-to-flee-again-and-disrupt-last-aid-hub/; www.aljazeera.com/opinions/2024/1/6/safe-zones-israels-technologies-of-genocide; and <https://forensic-architecture.org/investigation/humanitarian-violence-in-gaza>.

70 per cent of which Israel has repeatedly attacked.⁵⁹ The Rafah offensive in May caused more than 3,500 direct deaths⁶⁰ and new displacement of almost 1 million Palestinians to uninhabitable wastelands of rubble, sewage and decomposing bodies.⁶¹

17. According to satellite imagery and other sources, Israeli soldiers have built roads and military bases in more than 26 per cent of Gaza, suggesting the aim of a permanent presence.⁶² The Israeli military expanded the “buffer zone” along the Gaza perimeter to 16 per cent of the territory, flattening homes, apartment blocks and agricultural farms.⁶³ By August 2024, repeated evacuation orders over approximately 84 per cent of Gaza⁶⁴ had corralled the majority of the population into a shrinking, unsafe “humanitarian zone” covering 12.6 per cent⁶⁵ of a territory now reconfigured in preparation for annexation.⁶⁶ In early September, two ministers of the Government of Israel openly called for the conquest and annexation of significant areas of Gaza.⁶⁷

18. Israel has continued to use “medical shielding” arguments to target healthcare facilities.⁶⁸ According to the World Health Organization (WHO), in 300 days, 32 out of 36 hospitals were damaged, with 20 hospitals and 70 out of 119 primary healthcare centres incapacitated.⁶⁹ By 20 August, Israel had attacked healthcare facilities 492 times.⁷⁰ From 18 March to 1 April, Israeli forces again laid siege to Al-Shifa Hospital, killing more than 400 and detaining 300 people, including doctors, patients, displaced persons and civil servants.⁷¹ On 26 August, following mass expulsion orders in Deir al-Balah, where 1 million Palestinians were sheltering, Israeli forces compelled the evacuation of all but 100 of 650 patients in Al-Aqsa hospital.⁷² On 30 August, Israeli forces bombed a humanitarian truck bound for the Emirati hospital in Rafah, killing several aid workers.⁷³

19. On 16 July 2024, WHO detected the first presence of poliovirus in 25 years – a direct consequence of the destruction of water and sewage systems, obstruction of aid

⁵⁹ See www.unrwa.org/sites/default/files/photo_essay_education_under_attack.pdf.

⁶⁰ See https://aoav.org.uk/wp-content/uploads/2024/02/gaza_projections_report.pdf.

⁶¹ See www.unrwa.org/resources/reports/unrwa-situation-report-111-situation-gaza-strip-and-west-bank-including-east-jerusalem.

⁶² See www.haaretz.com/israel-news/security-aviation/2024-07-08/ty-article-static/.premium/israel-seized-26-of-gaza-now-jewish-settlers-see-their-chance/00000190-77cd-d705-a7f5-ffffc0000.

⁶³ See www.amnesty.org/en/latest/news/2024/09/israel-opt-israeli-military-must-be-investigated-for-war-crime-of-wanton-destruction-in-gaza-new-investigation/.

⁶⁴ See www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-203-gaza-strip.

⁶⁵ Ibid.

⁶⁶ A/HRC/55/73, paras. 85 and 95.

⁶⁷ See <https://x.com/AmichaiChikli/status/1830868859407970703> (Hebrew); and <https://x.com/bezalelsm/status/1830140531164237947> (Hebrew).

⁶⁸ A/HRC/55/73, paras. 87–92; and Nicola Perugini and Neve Gordon, “Medical lawfare: the Nakba and Israel’s attacks on Palestinian healthcare”, *Journal of Palestine Studies*, vol. 53, No. 1 (April 2024).

⁶⁹ See <https://healthcluster.who.int/publications/m/item/300-days-of-war-the-occupied-palestinian-territory>.

⁷⁰ Ibid.

⁷¹ See www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-149; www.who.int/news/item/06-04-2024-six-months-of-war-leave-al-shifa-hospital-in-ruins--who-mission-reports; and <https://mondoweiss.net/2024/04/come-out-you-animals-how-the-massacre-at-al-shifa-hospital-happened/>.

⁷² See www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-209-gaza-strip; and www.washingtonpost.com/world/2024/08/27/israel-gaza-war-deir-al-balah/.

⁷³ See www.theguardian.com/world/article/2024/aug/29/israel-airstrike-aid-convoy-gaza.

and shelter overcrowding.⁷⁴ By late August, a 10-month-old baby was partially paralysed by the disease.⁷⁵ Despite the looming outbreak, Israel delayed vaccinations⁷⁶ and attacked vaccination areas⁷⁷ and a United Nations vaccination convoy.⁷⁸ While humanitarian organizations called for a ceasefire, Israel issued the highest number of evacuation orders since 13 October 2023, targeting areas with the highest concentration of displaced Palestinians,⁷⁹ forcing the United Nations to suspend humanitarian operations.⁸⁰

20. Systematic attacks on Gaza food sovereignty indicate an intent to destroy its population through starvation.⁸¹ Israel has destroyed agricultural land⁸² and reservoirs⁸³ and attacked distribution centres, coordination teams and aid convoys.⁸⁴ Hungry crowds waiting for food have been massacred.⁸⁵ Following constant evacuation orders and the Israeli takeover of the Rafah crossing,⁸⁶ distribution of daily meals fell by 35 per cent from July to August 2024.⁸⁷ In August, entry permits for humanitarian organizations nearly halved.⁸⁸ Access to water has been restricted to a quarter of pre-7 October levels.⁸⁹ Approximately 93 per cent of the agricultural, forestry and fishing economies has been destroyed;⁹⁰ 95 per cent of Palestinians face high levels of acute food insecurity,⁹¹ and deprivation for decades to come.⁹²

21. In August 2024, the Finance Minister of Israel, Bezalel Smotrich, stated that starving the entire Gaza population was “justified and moral”, even if 2 million people consequently died.⁹³ In recent months, 83 per cent of food aid was prevented from entering Gaza,⁹⁴ and the civilian police in Rafah were repeatedly targeted, impairing

⁷⁴ See www.emro.who.int/opt/news/variant-type-2-poliovirus-isolated-from-sewage-samples-in-gaza.html; www.un.org/unispal/document/gaza-aid-agencies-polio-20aug24/; and www.hrw.org/news/2024/08/26/gaza-israeli-aid-obstruction-inflaming-polio-outbreak.

⁷⁵ See www.bbc.co.uk/news/articles/cevz7zreyxo.

⁷⁶ See <https://news.un.org/en/story/2024/08/1153761>; and <https://edition.cnn.com/2024/08/29/middleeast/gaza-who-humanitarian-pause-intl-latam/index.html>.

⁷⁷ See www.aljazeera.com/news/liveblog/2024/9/2/israeli-war-on-gaza-live-israel-bombs-school-killing-11-palestinians?update=3154007; and <https://x.com/EuroMedHR/status/1833448805238181922>.

⁷⁸ See www.reuters.com/world/middle-east/israeli-military-says-it-detained-un-convoy-northern-gaza-2024-09-09/.

⁷⁹ See www.ochaopt.org/content/humanitarian-situation-update-209-gaza-strip.

⁸⁰ See www.youtube.com/watch?v=oSQxAU5p1kc.

⁸¹ A/79/171, paras. 42–64 and 112 (d).

⁸² See <https://unosat.org/products/3905>.

⁸³ See <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/621609/bp-water-war-crimes-180724-en.pdf;jsessionid=37827E3BBC47450A27965C80546ACA65?sequence=1>, pp. 6 and 21.

⁸⁴ See <https://responsiblestatecraft.org/israel-amas-war-gaza/>; and <https://reliefweb.int/report/occupied-palestinian-territory/un-human-rights-office-opt-attacks-humanitarian-aid-distribution-system-enar>.

⁸⁵ See www.ohchr.org/en/press-releases/2024/03/un-experts-condemn-flour-massacre-urge-israel-end-campaign-starvation-gaza.

⁸⁶ See www.wfp.org/stories/gaza-updates-wfp-calls-all-access-points-be-opened-rafah-exodus-fuels-hunger.

⁸⁷ See www.ochaopt.org/content/humanitarian-situation-update-214-gaza-strip.

⁸⁸ See www.ochaopt.org/content/humanitarian-situation-update-211-gaza-strip.

⁸⁹ See www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-4-september-2024.

⁹⁰ See <https://thedocs.worldbank.org/en/doc/ce9fed0d3bb295f0363d690224d1cd39-0280012024/original/Palestinian-Econ-Upd-May2024-FINAL-ENGLISH-Only.pdf>, p. 6.

⁹¹ See www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_Gaza_Strip_Acute_Food_Insecurity_MaySept2024_Special_Snapshot.pdf.

⁹² A/79/171, para. 48.

⁹³ See www.timesofisrael.com/smotrich-it-may-be-justified-to-starve-2-million-gazans-but-world-wont-let-us/.

⁹⁴ See www.nrc.no/news/2024/september/israels-siege-now-blocks-83-of-food-aid-reaching-gaza-new-data-reveals/.

distribution.⁹⁵ At least 34 deaths from malnutrition were recorded by 14 September 2024.⁹⁶ At the time of writing, the Prime Minister, Benjamin Netanyahu, was evaluating a plan to block all food supplies to northern Gaza⁹⁷ proposed by adviser Giora Eiland,⁹⁸ who previously endorsed introducing epidemics as a military tactic.⁹⁹ The killing of civilian police and clan leadership providing security for food distribution further compounded the crisis across Gaza.¹⁰⁰ Starvation and deprivation tactics in the north have been particularly egregious.¹⁰¹

22. Palestinians have been systematically abused in a network of Israeli torture camps.¹⁰² Thousands have disappeared, many after being detained in appalling conditions, often bound to beds, blindfolded and in diapers, deprived of medical treatment and subjected to unsanitary conditions, starvation, torturous cuffing, severe beatings, electrocution and sexual assault by both humans and animals.¹⁰³ At least 48 detainees have died in custody.¹⁰⁴

23. Even when conservatively considered, these multiple torments constitute precisely the irreparable harm that ICJ has warned against since January 2024, and which Israel has intentionally inflicted on the Palestinians as a group.

B. Risk of genocide in the West Bank, including East Jerusalem

24. The devastation inflicted on Gaza is now metastasizing to the West Bank, including East Jerusalem. In December 2023, the Defence Minister of Israel, Yoav Gallant, predicted that “when what the IDF did in Gaza becomes clear, that will also be projected on Judea and Samaria [West Bank]”.¹⁰⁵

⁹⁵ See www.unocha.org/publications/report/occupied-palestinian-territory/hostilities-gaza-strip-and-israel-flash-update-11; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-116; www.unocha.org/publications/report/occupied-palestinian-territory/hostilities-gaza-strip-and-israel-flash-update-118-enarhe; www.un.org/unispal/document/ocha-sitrep-188-08jul24/; and <https://reliefweb.int/report/occupied-palestinian-territory/un-human-rights-office-opt-attacks-humanitarian-aid-distribution-system-enar>.

⁹⁶ See www.ohchr.org/en/press-releases/2024/07/un-experts-declare-famine-has-spread-throughout-gaza-strip.

⁹⁷ See <https://aje.io/e90yu2?update=3174278>; www.israelnationalnews.com/en/news/395677; and <https://edition.cnn.com/2024/09/22/middleeast/netanyahu-gaza-hamas-expulsions-plan-intl/index.html>.

⁹⁸ See www.972mag.com/northern-gaza-liquidation-scenario-eiland-rabi/.

⁹⁹ S/2024/419, pp. 92–93.

¹⁰⁰ See www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-113; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-116; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-118; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-143; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-144; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-149; www.ochaopt.org/content/humanitarian-situation-update-188-gaza-strip; and <https://reliefweb.int/report/occupied-palestinian-territory/un-human-rights-office-opt-attacks-humanitarian-aid-distribution-system-enar>.

¹⁰¹ Additional Protocol I to the 1949 Geneva Conventions of 12 August 1949, art. 54; Additional Protocol II to the 1949 Geneva Conventions of 12 August 1949, art. 14; International Committee of the Red Cross on customary international humanitarian law, rule 53; and Rome Statute of the International Criminal Court, art. 8 (2) (b) (xxv).

¹⁰² See www.btselem.org/sites/default/files/publications/202408_welcome_to_hell_eng.pdf; and www.ohchr.org/en/press-releases/2024/08/israels-escalating-use-torture-against-palestinians-custody-preventable.

¹⁰³ See www.btselem.org/sites/default/files/publications/202408_welcome_to_hell_eng.pdf.

¹⁰⁴ *Ibid.*, p. 91.

¹⁰⁵ See www.kikar.co.il/security-news/s5ieil (Hebrew).

25. From 7 October 2023 to the end of September 2024, Israeli forces carried out more than 5,505 raids.¹⁰⁶ Violent settlers, supported by Israeli forces and officials,¹⁰⁷ conducted 1,084 attacks,¹⁰⁸ killing more than 692 Palestinians – 10 times the previous 14 years’ annual average of 69 fatalities – and injuring 5,199.¹⁰⁹

26. The pattern of targeting children is shocking. Since 7 October, 169 Palestinian children have been killed,¹¹⁰ nearly 80 per cent of whom were shot in the head or torso.¹¹¹ This represents a 250 per cent increase on the previous nine months,¹¹² totalling more than 20 per cent of children killed in the West Bank since 2000.¹¹³

27. Echoing the brutality that swept Gaza, Palestinians in the West Bank have been subjected to appalling detention practices,¹¹⁴ following orders by the National Security Minister of Israel, Itamar Ben-Gvir.¹¹⁵ A mass arrest campaign¹¹⁶ led to the detention of tens of thousands, with 9,400 currently detained.¹¹⁷ As in Gaza, many are academics, students, lawyers, journalists and human rights defenders,¹¹⁸ designated as “terrorists” or “national security threats”.¹¹⁹ Leaked videos and interviews with prison officials revealed intentional and systemic abuse and brutality, degradation, torture and even rape.¹²⁰ At least 12 detainees from the West Bank died as a result of torture and denial of medical care.¹²¹

28. In November 2023, Bezalel Smotrich, “Governor of Judea and Samaria” and staunch advocate of colonization and mass expulsion,¹²² claimed that there are “2 million Nazis” in the West Bank.¹²³ He then promised to turn several areas of the

¹⁰⁶ NGO submissions.

¹⁰⁷ A/HRC/55/72, para. 18; <https://reliefweb.int/report/occupied-palestinian-territory/un-human-rights-office-opt-statement-new-wave-settler-attacks-displacing-palestinian-herding-communities-and-consolidating-settlements-and-outposts-occupied-west-bank>; and www.haaretz.com/israel-news/2024-01-24/ty-article/.premium/israeli-army-weighs-plan-to-arm-west-bank-settlements-with-anti-tank-missiles/0000018d-3b7e-d32b-adeb-ff7e83330000.

¹⁰⁸ See <https://reliefweb.int/report/occupied-palestinian-territory/atrocity-alert-no-403-israel-and-occupied-palestinian-territory-sudan-and-un-human-rights-council>.

¹⁰⁹ See www.ochaopt.org/data/casualties.

¹¹⁰ See www.unicef.org/press-releases/child-casualties-west-bank-skyrocket-past-nine-months.

¹¹¹ See https://assets.nationbuilder.com/dcipalestine/pages/5323/attachments/original/1725884141/Targeting_Childhood_report.pdf?1725884141, p. 7.

¹¹² See https://assets.nationbuilder.com/dcipalestine/pages/5323/attachments/original/1725884141/Targeting_Childhood_report.pdf?1725884141, p. 7; and www.unicef.org/press-releases/child-casualties-west-bank-skyrocket-past-nine-months.

¹¹³ See https://assets.nationbuilder.com/dcipalestine/pages/5323/attachments/original/1725884141/Targeting_Childhood_report.pdf?1725884141.

¹¹⁴ NGO submissions; A/HRC/55/28, paras. 75–80; and <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28609>.

¹¹⁵ See www.btselem.org/sites/default/files/publications/202408_welcome_to_hell_eng.pdf, pp. 7–8.

¹¹⁶ See www.amnesty.org.uk/press-releases/israelopt-surge-arbitrary-detention-west-bank-palestinians-torture-rife; NGO submissions; and A/HRC/56/26, para. 62.

¹¹⁷ See <https://hamoked.org/prisoners-charts.php>; and www.ohchr.org/en/press-releases/2024/08/israels-escalating-use-torture-against-palestinians-custody-preventable.

¹¹⁸ See www.ohchr.org/sites/default/files/documents/countries/opt/20240731-Thematic-report-Detention-context-Gaza-hostilities.pdf.

¹¹⁹ See <https://cpj.org/2024/09/arrests-of-palestinian-journalists-since-start-of-israel-gaza-war/>.

¹²⁰ See www.amnesty.org/en/latest/news/2023/11/israel-opt-horrifying-cases-of-torture-and-degrading-treatment-of-palestinian-detainees-amid-spike-in-arbitrary-arrests/; <http://mezan.org/uploads/files/2024/4/1712323548Torture%20report-AlMezan.pdf>; and www.omct.org/site-resources/files/Submission_SR_Torture_final-15.2.24.pdf, p. 7.

¹²¹ See www.btselem.org/sites/default/files/publications/202408_welcome_to_hell_eng.pdf, p. 9.

¹²² See <https://hashiloach.org.il/israels-decisive-plan/>.

¹²³ See www.timesofisrael.com/there-are-2-million-nazis-in-west-bank-says-far-right-finance-minister-smotrich/. See also para. 32.

West Bank into a “pile of rubble like ... [Gaza]”.¹²⁴ On 18 August, the Foreign Minister of Israel, Israel Katz, called for the West Bank to receive the same treatment as Gaza.¹²⁵

29. The northern West Bank has been the subject of particularly severe military violence.¹²⁶ Protracted sieges,¹²⁷ relentless raids¹²⁸ and a major escalation since August 2024, including aerial bombardment,¹²⁹ have wrought devastation.¹³⁰ Forty-six drone and air strike operations¹³¹ killed 77 Palestinians, including 14 children.¹³² In Jenin camp approximately 180 homes were levelled and 3,800 structures damaged,¹³³ destroying or damaging power supplies, public services and amenities,¹³⁴ displacing thousands of families and causing widespread disruption.¹³⁵ More than 181,000 Palestinians have been affected, many multiple times.¹³⁶

30. On 27 August 2024, Israeli forces launched operation “Summer Camps” against Jenin, Nablus, Qalqilya, Tubas and Tulkarem, fulfilling the promise to treat the West Bank like Gaza.¹³⁷ For days on end, thousands were placed under curfew, without food or water.¹³⁸ Israeli forces targeted ambulances, blocked entrances to hospitals and laid siege to Jenin Hospital.¹³⁹ Bulldozers destroyed streets and electricity and public health infrastructure.¹⁴⁰ Hundreds lost their homes and property;¹⁴¹ more than

¹²⁴ See www.srugim.co.il/999113-%D7%A1%D7%9E%D7%95%D7%98%D7%A8%D7%99%D7%A5-%D7%90%D7%9D-%D7%99%D7%9E%D7%A9%D7%9A-%D7%94%D7%98%D7%A8%D7%95%D7%A8-%D7%98%D7%95%D7%9C%D7%9B%D7%A8%D7%9D-%D7%AA%D7%94%D7%A4%D7%95%D7%9A-%D7%9C%D7%A2 (Hebrew).

¹²⁵ See https://x.com/Israel_katz/status/1828654399360586025 (Hebrew).

¹²⁶ See www.ohchr.org/en/press-releases/2024/06/occupied-palestinian-territory-turk-condemns-over-500-west-bank-killings.

¹²⁷ See www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-189-west-bank-enarhe.

¹²⁸ See www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-189-west-bank-enarhe; www.ochaopt.org/poc/16-29-may-2023; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-137; and www.ochaopt.org/content/humanitarian-situation-update-180-gaza-strip-west-bank.

¹²⁹ See <https://theintercept.com/2024/06/12/israel-west-bank-airstrikes-drones-palestinians-killed-children/>.

¹³⁰ See www.972mag.com/jenin-tulkarem-armed-resistance-israeli-repression/.

¹³¹ See <https://acleddata.com/2024/08/05/palestine-mid-year-metrics-2024/>.

¹³² See www.ochaopt.org/content/humanitarian-situation-update-186-west-bank

¹³³ See www.972mag.com/jenin-tulkarem-armed-resistance-israeli-repression/.

¹³⁴ See <https://t.me/jenencamb/57875>; www.ohchr.org/en/press-releases/2024/09/apartheid-israel-targeting-gaza-and-west-bank-simultaneously-says-expert; and www.972mag.com/jenin-tulkarem-armed-resistance-israeli-repression/.

¹³⁵ See www.972mag.com/israel-apartheid-jenin-gaza/; www.972mag.com/jenin-tulkarem-armed-resistance-israeli-repression/; and www.ohchr.org/en/press-releases/2024/09/apartheid-israel-targeting-gaza-and-west-bank-simultaneously-says-expert.

¹³⁶ See www.un.org/unispal/document/humanitarian-situation-update-201-07aug24/.

¹³⁷ See <https://edition.cnn.com/2024/09/06/middleeast/israeli-military-operation-jenin-west-bank-enters-second-week-intl/index.html>.

¹³⁸ See www.unrwa.org/resources/reports/unrwa-situation-report-133-situation-gaza-strip-and-west-bank-including-east-jerusalem; and <https://reliefweb.int/report/occupied-palestinian-territory/un-human-rights-office-opt-israeli-security-forces-have-killed-36-palestinians-including-eight-children-10-days-during-operation-northern-west-bank-while-settler-violence-intensifies>.

¹³⁹ See www.ohchr.org/en/press-releases/2024/09/apartheid-israel-targeting-gaza-and-west-bank-simultaneously-says-expert; and www.ochaopt.org/content/humanitarian-situation-update-213-west-bank.

¹⁴⁰ See www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-216-west-bank-enar.

¹⁴¹ See www.ochaopt.org/content/humanitarian-situation-update-213-west-bank.

1,000 families in Jenin were displaced.¹⁴² Thirty-six were killed, including eight children.¹⁴³

31. Targeted attacks on the health sector have been replicated in the West Bank. Medical workers and infrastructure were attacked 538 times, killing 23 people and injuring 100 and damaging 54 medical facilities, 20 mobile clinics and 374 ambulances,¹⁴⁴ while critical medical care was impeded.¹⁴⁵ Permits for Palestinians to access medical care outside the West Bank sharply declined.¹⁴⁶

32. On 29 May 2024, governance of the West Bank was officially transferred from military to civilian authorities – furthering *de jure* annexation – and placed under Bezalel Smotrich, a committed Eretz Yisrael politician.¹⁴⁷ The largest single land appropriation in 30 years was then approved.¹⁴⁸ Since 7 October, Israel has demolished, confiscated or ordered the demolition of more than 1,416 Palestinian structures, displacing more than 3,200 Palestinians, including approximately 1,400 children.¹⁴⁹ At least 18 communities were depopulated under the threat of lethal force,¹⁵⁰ effectively enabling the colonization of large tracts of Area C.¹⁵¹ This constitutes an escalation of unlawful conduct already found to be “aimed at dispersing the [Palestinian] population and undermining its integrity as a people”.¹⁵²

33. The crippling of the economy is another existential threat. Amid extreme insecurity and fear, the suspension of financial transfers to the Palestinian Authority,¹⁵³ the revocation of 148,000 work permits¹⁵⁴ and severe movement restrictions, the gross domestic product (GDP) of the West Bank contracted by 22.7

¹⁴² See <https://reliefweb.int/report/occupied-palestinian-territory/un-human-rights-office-opt-israeli-security-forces-have-killed-36-palestinians-including-eight-children-10-days-during-operation-northern-west-bank-while-settler-violence-intensifies>.

¹⁴³ See www.unocha.org/publications/report/occupied-palestinian-territory/humanitarian-situation-update-216-west-bank-enar.

¹⁴⁴ See www.emro.who.int/images/stories/Sitrep_-_issue_41b.pdf.

¹⁴⁵ See www.msf.org/west-bank-israeli-forces-render-healthcare-inaccessible-when-needed-most; www.who.int/news/item/14-06-2024-who-concerned-about-escalating-health-crisis-in-west-bank.

¹⁴⁶ See www.who.int/news/item/14-06-2024-who-concerned-about-escalating-health-crisis-in-west-bank.

¹⁴⁷ A/79/347, paras. 7–10. See also the concern raised in *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, 19 July 2024, I.C.J. Reports 2024*, para. 156.

¹⁴⁸ See <https://peacenow.org.il/en/state-land-declaration-12000-dunams>; and www.gov.il/BlobFolder/reports/yafit2heb/he/igal_%D7%99%D7%A4%D7%99%D7%AA%20-%20%D7%9E%D7%A7%D7%98%D7%A2%D7%99%D7%9D%20%D7%91%20%D7%92%20%D7%90%D7%99%D7%A0%D7%98%D7%A8%D7%A0%D7%98%20%D7%A2%D7%91%D7%A8%D7%99%D7%AA.pdf (Hebrew).

¹⁴⁹ See www.ochaopt.org/content/humanitarian-situation-update-207-west-bank.

¹⁵⁰ See www.haaretz.com/middle-east-news/palestinians/2024-05-05/ty-article-magazine/premium/since-the-war-began-entire-areas-of-the-west-bank-have-been-emptied-of-their-communities/0000018f-39a9-d9c3-abc7-7bfd66980000.

¹⁵¹ See www.crisisgroup.org/middle-east-north-africa/east-mediterranean-mena-israelpalestine/246-stemming-israeli-settler-violence; and www.ochaopt.org/content/humanitarian-situation-update-219-west-bank.

¹⁵² *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, 19 July 2024, I.C.J. Reports 2024*, para. 239.

¹⁵³ See www.crisisgroup.org/united-states-israelpalestine/meltdown-looms-west-banks-financial-lifelines; and www.ohchr.org/en/press-releases/2024/04/israel-withholding-tax-revenue-and-revoking-banking-waivers-could-paralyse.

¹⁵⁴ See www.worldbank.org/en/news/press-release/2024/05/23/world-bank-issues-new-update-on-the-palestinian-economy.

per cent,¹⁵⁵ nearly 30 per cent of businesses have closed, and 292,000 jobs have been lost.¹⁵⁶

34. Genocidal conduct in Gaza set an ominous precedent for the West Bank. The deliberate strategy of Israel to render Palestinian life unsustainable has markedly intensified everywhere in the occupied Palestinian territory, with devastating consequences for Palestinian survival.

IV. Understanding the legal complexity and scope of genocidal intent

35. Following the harrowing experience of recent genocides in Rwanda, the former Yugoslavia and, plausibly, Myanmar,¹⁵⁷ what constitutes genocide in law – the destruction of a national, ethnical, racial or religious group, in whole or in part, as such – has become better established.¹⁵⁸ However, preventing and punishing genocide in practice, in particular proving genocidal intent, is still developing.¹⁵⁹

36. The stigma attached to and the consequences of the crime of genocide often deter perpetrators from recording policies, plans and other indications of intent to carry it out (e.g. in writing).¹⁶⁰ When direct evidence of intent is unavailable, inferring intent requires a complex assessment of facts, statements and circumstances.¹⁶¹ These factors should be borne in mind:

(a) While recognizing the possible composite nature of genocide is critical to its identification and prevention, the compartmentalization of the conduct into its disparate acts without recourse to broader context can obscure the requisite genocidal intent;

(b) Aside from the five acts that may constitute genocidal conduct, other acts can be indicative of genocidal intent;¹⁶²

(c) The existing jurisprudence has arisen primarily from the criminal prosecution of individuals;¹⁶³ this can limit the early recognition of broader State responsibility for genocide, which is crucial to its prevention.

¹⁵⁵ See www.ilo.org/resource/news/war-propels-unemployment-close-80-cent-and-shrinks-gdp-835-cent-gaza-strip.

¹⁵⁶ See www.worldbank.org/en/news/press-release/2024/05/23/world-bank-issues-new-update-on-the-palestinian-economy.

¹⁵⁷ A/HRC/39/64, paras. 84–87; and *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Order of 23 January 2020, I.C.J. Reports 2020, p. 69, para. 56.

¹⁵⁸ A/HRC/55/73, paras. 15–20.

¹⁵⁹ Paul Behrens, “Between abstract event and individualized crime: genocidal intent in the case of Croatia”, *Leiden Journal of International Law*, vol. 28, No. 4 (October 2015), p. 934.

¹⁶⁰ International Criminal Tribunal for Rwanda, *Sylvestre Gacumbitsi v. The Prosecutor*, Case No. ICTR-2001-64-A, Appeal Judgment, 7 July 2006, para. 40.

¹⁶¹ A/HRC/55/73, para. 18.

¹⁶² *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, Judgment, I.C.J. Reports 2015, p. 3, paras. 162, 390 and 434; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007, p. 43, para. 190 and 344; International Tribunal for the Former Yugoslavia, *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-T, Judgment, 2 August 2001, para. 580; and International Tribunal for the Former Yugoslavia, *Prosecutor v. Karadžić*, Case No. IT-95-5/18-T, Judgment, 24 March 2016, para. 553.

¹⁶³ William Schabas, *Genocide in International Law*, 2nd ed. (Cambridge University Press, 2009), p. 512.

37. Understanding how the intent to destroy manifests – its relationship to the prescribed genocidal acts and the nature and scale of atrocities – is key when identifying conduct that could constitute evidence of genocidal intent as the only reasonable inference.

38. In the following sections, the Special Rapporteur briefly outlines how relevant jurisprudence, analysed *in abstracto*, is fully capable of capturing genocidal intent in State conduct when a comprehensive interpretative approach is adopted.

A. Considering the plurality of facts, circumstances and conduct

39. The magnitude and complexity of the crime of genocide require close analysis of the genocidal conduct as a whole,¹⁶⁴ properly situated in its broader context.¹⁶⁵ Due consideration should be given to:

- The destruction caused by the nature and scale of atrocities¹⁶⁶
- The fog of war¹⁶⁷
- Claims to retribution or alternative motives¹⁶⁸
- The opportunity to commit genocide¹⁶⁹

40. In international practice, the same facts can form the basis of multiple charges (and constitute a war crime or crime against humanity and an act of genocide).¹⁷⁰

¹⁶⁴ International Criminal Tribunal for Rwanda, *Ferdinand Nahimana and Others v. The Prosecutor*, Case No. ICTR-99-52-A, Appeals Judgment, 28 November 2007, para. 524.

¹⁶⁵ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, Judgment, I.C.J. Reports 2015, p. 3, paras. 419–430.

¹⁶⁶ International Tribunal for the Former Yugoslavia, *Prosecutor v. Popović and Others*, Case No. IT-05-88-A, Appeal-Judgment, 30 January 2015, para. 503; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, Judgment, I.C.J. Reports 2015, p. 3, para. 413; Joint Declaration of Intervention of Canada, Denmark, France, Germany, the Netherlands and the United Kingdom of Great Britain and Northern Ireland (to the case of *The Gambia v. Myanmar*), 15 November 2023, para. 53; and A/HRC/39/CRP.2, paras. 1436–1438.

¹⁶⁷ International Tribunal for the Former Yugoslavia, *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-T, para. 572.

¹⁶⁸ International Criminal Tribunal for Rwanda, *Aloys Simba v. the Prosecutor*, Case No. ICTR-01-76-A, Appeal Judgment, 27 November 2007, paras. 268–269; International Criminal Tribunal for Rwanda, *The Prosecutor v. Elizaphan Ntakirutimana and others*, Case Nos. ICTR-96-10-A and ICTR-96-17-A, Appeal Judgment, 13 December 2004, paras. 302–304; International Tribunal for the Former Yugoslavia, *Prosecutor v. Goran Jelisić*, Case No. IT-95-10-A, Appeal Judgment, 5 July 2001, para. 49; and *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, Judgment, I.C.J. Reports 2015, p. 3, Separate Opinion of Judge Bhandari, para. 50.

¹⁶⁹ See *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, Judgment, I.C.J. Reports 2015, p. 3, paras. 431–437; and International Tribunal for the Former Yugoslavia, *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-A, Appeal Judgement, 19 April 2004, paras. 13 and 148–149.

¹⁷⁰ Patricia M. Wald, “Genocide and crimes against humanity”, *Washington University Global Studies Law Review*, vol. 6, No. 3 (January 2007), pp. 631–632.

When determining genocidal intent, it is critical to assess “whether all of the evidence, taken together, demonstrate[s] a genocidal mental state”.¹⁷¹

41. As observed by Judge Trindade in *Croatia v. Serbia*, an “onslaught of civilians” is not merely a “plurality of common crimes”, but rather a “plurality of atrocities, which, in itself, by its extreme violence and devastation, can disclose the intent to destroy”.¹⁷² The focus should be on whether all the acts – e.g. starvation, torture, killing, forced displacement, extermination – considered together in their totality form a pattern of conduct indicative of genocidal intent.¹⁷³

B. Singularity of intent: destroying “a group” “as such”

42. In proving intent to destroy the group, all relevant factors must be examined holistically. Jurisprudence on genocidal intent is typically focused on “physical or biological destruction” of the group.¹⁷⁴ The fact that the Genocide Convention was drafted when colonialism still played a significant role in international relations, and the vivid horror of the Holocaust’s industrial-scale extermination, may account for the focus on physical and biological destruction over social and cultural factors.¹⁷⁵ However, genocide is not a crime only of mass killing, as specified in the Convention itself.¹⁷⁶ The genocidal act of “forcibly transferring children of the group to another group”, for example, entails no killing at all.¹⁷⁷

43. Genocide is more structurally complex and insidious, and therefore more difficult to ascertain than crimes such as mass killing or extermination. A wider lens

¹⁷¹ International Tribunal for the Former Yugoslavia, *Prosecutor v. Milomir Stakić*, Case No. IT-97-24-A, Appeal Judgment, 22 March 2006, para. 55; (cited in) Joint Declaration of Intervention of Canada, Denmark, France, Germany, the Netherlands and the United Kingdom (to the case of *The Gambia v. Myanmar*), para. 54; International Tribunal for the Former Yugoslavia, *Prosecutor v. Karadžić*, Case No. IT-95-5/18-T, Judgment, 24 March 2016, paras. 550 and 2592; International Tribunal for the Former Yugoslavia, *Prosecutor v. Zdravko Tolimir*, Case No. IT-05-88/2-A, Appeal Judgment, 8 April 2015, paras. 246–247; Extraordinary Chambers in the Courts of Cambodia, *Case 002/02 Judgment (Chea Nuon and Samphan Khieu)*, Case No. 002/19-09-2007/ECCC/TC, Judgment, 16 November 2018, para. 803; and A/HRC/39/CRP.2, para. 1416.

¹⁷² *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, Judgment, I.C.J. Reports 2015, p. 3, see Dissenting Opinion of Judge Cañado Trindade, para. 237.

¹⁷³ Extraordinary Chambers in the Courts of Cambodia, *Case 002/02 Judgment*, para. 801 (citing S/1994/674, para. 94); International Tribunal for the Former Yugoslavia, *Prosecutor v. Zdravko Tolimir*, Case No. IT-05-88/2-T, Judgment, 12 December 2012, para. 745; International Tribunal for the Former Yugoslavia, *Prosecutor v. Milomir Stakić*, Case No. IT-97-24-A, Appeal Judgment, 22 March 2006, para. 55; International Criminal Tribunal for Rwanda, *The Prosecutor v. Yussuf Munyakazi*, Case No. ICTR-97-36A-A, Appeal Judgment, 28 September 2011, para. 142; and International Criminal Tribunal for Rwanda, *Ildéphonse Hategekimana v. The Prosecutor*, Case No. ICTR-00-55B-A, Appeal Judgment, 8 May 2012, para. 133.

¹⁷⁴ International Tribunal for the Former Yugoslavia, *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-T, para. 580; and *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007, para. 344.

¹⁷⁵ Tamara Starblanket, *Suffer the Little Children: Genocide, Indigenous Nations and the Canadian State* (Clarity Press, 2018), pp. 77–78; and Elisa Novic, *The Concept of Cultural Genocide: An International Law Perspective* (Oxford, Oxford University Press, 2016), p. 28.

¹⁷⁶ International Tribunal for the Former Yugoslavia, *Prosecutor v. Vidoje Blagojević and Dragan Jokić*, Case No. IT-02-60-T, Judgment, 17 January 2005, para. 666; Extraordinary Chambers in the Courts of Cambodia, *Case 002/02 Judgment*, para. 801; Element of Crimes, art. 6 (PCNICC/2000/1/Add.2, see construction of genocide crimes under the Rome Statute of the International Criminal Court). See also, International Tribunal for the Former Yugoslavia, *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-A, Appeal Judgment, 19 April 2004, para. 32.

¹⁷⁷ Convention on the Prevention and Punishment of the Crime of Genocide, art. II (e).

is required to identify the intent to destroy a group in whole or in part as such. International jurisprudence provides that acts other than the five listed in the Convention may be relevant evidence of genocidal intent.¹⁷⁸ Accordingly, the historical and sociopolitical context in which genocide occurs is key to identifying how intent forms, and then materializes also through these other acts.

44. Jurisprudence has been broadly focused on determining intent through acts targeting “the very foundation of the group”,¹⁷⁹ including the imposition of living conditions leading to “slow death”¹⁸⁰ and “the destruction of the spirit, of the will to live, and of life itself”.¹⁸¹ In other words, intent to destroy is assessed holistically and in totality.

45. Jurisprudence has also recognized that a group is “comprised of its individuals, but also of its history, traditions, the relationship between its members, the relationship with other groups, the relationship with the land”.¹⁸² Violent destruction of any of these components has a profound impact on the group and its ability to survive.¹⁸³ Trauma, poverty, food scarcity, forced displacement, loss of homes, land and cultural heritage – and settler-colonialism as an “enduring structure”¹⁸⁴ – are widely recognized determinants of individual and societal health.¹⁸⁵

46. In settler-colonial contexts, land and its resources are particularly relevant. Land is intrinsic to both a people’s right to self-determination and the settler-colonial project. An inherent conflict exists between the colonizers, who seek to acquire and control the land, and the Indigenous population, for whom the land is integral to their identity: “where they are is who they are”.¹⁸⁶ Disconnection from land and cultural roots contributes to the erosion of identity and community resilience, resulting in physically destructive outcomes: poorer health, lower life expectancy and abnormally

¹⁷⁸ See footnote 162.

¹⁷⁹ International Criminal Tribunal for Rwanda, *The Prosecutor v. Athanase Seromba*, Case No. ICTR-2001-66-A, Appeal Judgment, 12 March 2008, para. 176; International Criminal Tribunal for Rwanda, *The Prosecutor v. Siméon Nchamihigo*, Case No. ICTR-01-63-T, Judgment and Sentence, 12 November 2008, para. 331; Israel, District Court of Jerusalem, *Attorney-General v. Eichmann*, Case No. 40/61, Judgment, 1968, para. 183; and International Tribunal for the Former Yugoslavia, *The Prosecutor v. Radovan Karadžić and Ratko Mladić*, Case No. IT-95-5-R61; IT-95-18-R6I, Rule 61 Review of the Indictments, 11 July 1996, paras. 94–95.

¹⁸⁰ International Tribunal for the Former Yugoslavia, *Prosecutor v. Zdravko Tolimir*, Case No. IT-05-88/2-T, Judgment, 12 December 2012, para. 740.

¹⁸¹ International Criminal Tribunal for Rwanda, *The Prosecutor v. Jean-Paul Akayesu*, Case No. ICTR-96-4-T, Judgment, 2 September 1998, para. 732.

¹⁸² International Tribunal for the Former Yugoslavia, *Prosecutor v. Vidoje Blagojević and Dragan Jokić*, Case No. IT-02-60-T, Judgment, 17 January 2005, para. 666; and A/HRC/39/CRP.2, para. 1405.

¹⁸³ See International Criminal Court, Trial Chamber VI, *The Prosecutor v. Bosco Ntaganda*, Case No. ICC-01/04-02/06-2659, Reparations Order, 8 March 2021, paras. 73–74; and Inter-American Court of Human Rights, *Gómez-Palomino v. Peru*, Series C No. 136, Judgment, 22 November 2005, para. 146.

¹⁸⁴ Bram Wispelwey and others, “Because its power remains naturalized: introducing the settler colonial determinants of health”, *Frontiers in Public Health*, vol. 11 (July 2023), p. 3.

¹⁸⁵ E/C.12/2000/4, para. 4; and Kimberly Matheson and others, “Canada’s colonial genocide of indigenous peoples: a review of the psychosocial and neurobiological processes linking trauma and intergenerational outcomes”, *International Journal of Environmental Research and Public Health*, vol. 19, No. 11 (May 2022), p. 2.

¹⁸⁶ Patrick Wolfe, “Settler colonialism and the elimination of the native”, *Journal of Genocide Research*, vol. 8, No. 4 (2006), p. 388.

high suicide rates.¹⁸⁷ The issue of land is therefore indicative of how the settler-colonial project destroys – in order to replace – the Indigenous population.¹⁸⁸

47. Consequently, components of conduct, such as repeated forced displacement, that result in the disconnection from the land, as well as the destruction of the cultural, educational and economic structures that tie a people to the land, must be considered “significant as indicative of the presence of a specific intent ... inspiring [other genocidal] acts”.¹⁸⁹ Forced displacement itself, together with aggravating factors – e.g. displacement into dangerous, squalid or toxic conditions – can constitute an underlying genocidal act.¹⁹⁰ The particular vulnerability of the group must also be considered.¹⁹¹

48. In short, intent to destroy has become established as the targeting of a group’s existence such that “the group can no longer reconstitute itself”.¹⁹²

C. Genocidal intent in the context of State responsibility

49. Early identification of genocide is crucial to prevent genocide, ensuring that a central tenet of the post-Second World War international legal system is not a dead letter.

50. In assessing State responsibility for genocide – i.e. genocidal intent attributable to the State – ICJ has drawn heavily on the jurisprudence of international criminal tribunals.¹⁹³ While acknowledging that State responsibility can be established “without an individual being convicted of the crime”,¹⁹⁴ in *Bosnia v. Serbia* in 2007, the Court found State genocidal intent only where individual perpetrators had been held criminally responsible. The Court established that, in the absence of direct evidence of State intent, the pattern of conduct must be such that it “could only point to the existence of such intent”.¹⁹⁵ This approach was tempered in 2015, in *Croatia v. Serbia*, where the Court determined that “reasonableness” must be considered when inferring genocidal intent from patterns of conduct.¹⁹⁶

¹⁸⁷ A/HRC/21/53, para. 84; A/HRC/54/31/Add.2, paras. 21 and 26; A/HRC/33/57, paras. 4–5; Maria Yellow Horse Brave Heart and others, “Historical trauma among indigenous peoples of the Americas: concepts, research, and clinical considerations”, *Journal of Psychoactive Drugs*, vol. 43, No. 4 (October 2011), p. 284; and Matheson and others, “Canada’s colonial genocide”.

¹⁸⁸ Wolfe, “Settler colonialism”, p. 388.

¹⁸⁹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007, p. 43, paras. 190 and 344. See also, International Tribunal for the Former Yugoslavia, *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-A, Appeal Judgement, 19 April 2004, para. 33.

¹⁹⁰ International Tribunal for the Former Yugoslavia, *Prosecutor v. Zdravko Tolimir*, Case No. IT-05-88/2-T, Judgment, 12 December 2012, para. 740.

¹⁹¹ *Ibid.*, para. 742.

¹⁹² International Tribunal for the Former Yugoslavia, *Prosecutor v. Vidoje Blagojević and Dragan Jokić*, Case No. IT-02-60-T, Judgment, 17 January 2005, paras. 661 and 666, citing International Tribunal for the Former Yugoslavia, *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-A, Appeal Judgement, 19 April 2004, para. 31; A/HRC/39/CRP.2, para. 1405; and Extraordinary Chambers in the Courts of Cambodia, *Case 002/02 Judgment*, para. 801.

¹⁹³ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007, p. 43, paras. 374–376; and *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, Judgment, I.C.J. Reports 2015, p. 3, paras. 182, 187, 414, 424–430 and 440.

¹⁹⁴ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007, p. 43, paras. 182 and 373–375.

¹⁹⁵ *Ibid.*, para. 373.

¹⁹⁶ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide*

51. However, further clarity is needed regarding genocidal intent in the context of State responsibility. State intent can be derived from the aggregate of individual perpetrators' genocidal intents, but States should not be exonerated simply because there are no individual criminal convictions, which, if they do occur, may come too late to prevent or stop genocide. While ICJ acknowledged that State obligations concerning genocide are "not of a criminal nature",¹⁹⁷ the standard of proof required to ground the responsibility of a State is a quasi-criminal standard. Among other things, this would delay or frustrate justice for victims.

52. Intervening in *The Gambia v. Myanmar*, currently before ICJ, six Western States argued that the "reasonableness criterion" requires a "balanced approach" so as not to make it "impossible" to determine genocidal intent "by way of inference"¹⁹⁸ in other words, urging the Court not to miss the forest for the trees. Otherwise, this risks protecting the State over the victims that the Convention is designed to protect.¹⁹⁹

53. Three factors help achieve this balance:

(a) Applying the "only reasonable inference" test involves first filtering out other possible intents that could be inferred but are not reasonably supported by the evidence.²⁰⁰ A balanced consideration of the interplay between motives and intent should determine whether motives "preclude such a specific intent" to destroy a people,²⁰¹ or whether they are consistent with, or even confirm, genocidal intent as the only reasonable inference;

(b) International law treats the State as a unit, not as separate organs.²⁰² This means that conduct and intent of the State must be considered holistically. A rule of law-regulated State must be viewed as a whole, including its Government, parliament and judiciary and their regulatory functions;

(c) Given the high threshold set for establishing genocidal intent, the failure to illuminate the totality of conduct invites the possibility of invisibilizing the crime itself behind the claimed strategies, policies and actions that are advanced by the wrongdoing State in order to obscure it.²⁰³ Failure to recognize genocide in its totality may help create the camouflage that a State could employ to commit it.

(*Croatia v. Serbia*), para. 148.

¹⁹⁷ *Ibid.*, para. 170.

¹⁹⁸ Joint Declaration of Intervention of Canada, Denmark, France, Germany, the Netherlands and the United Kingdom (to the case of *The Gambia v. Myanmar*), para. 52, citing *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, *Judgment*, *I.C.J. Reports 2015*, p. 3, para. 148.

¹⁹⁹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, *Judgment*, *I.C.J. Reports 2015*, p. 3, see Dissenting Opinion of Judge Cançado Trindade, para. 145.

²⁰⁰ Joint Declaration of Intervention of Canada, Denmark, France, Germany, the Netherlands and the United Kingdom (to the case of *The Gambia v. Myanmar*), paras. 50–52.

²⁰¹ International Criminal Tribunal for Rwanda, *The Prosecutor v. François Karera*, Case No. ICTR-01-74-T, Judgment, 7 December 2007, para. 534; International Criminal Tribunal for Rwanda, *Eliézer Niyitegeka v. The Prosecutor*, Case No. ICTR-96-14-A, Appeal Judgment, 9 July 2004, para. 53; International Tribunal for the Former Yugoslavia, *Prosecutor v. Karadžić*, Case No. IT-95-5/18-T, Judgment, 24 March 2016, para. 554; and Extraordinary Chambers in the Courts of Cambodia, *Case 002/02 Judgment*, paras. 4507–4512.

²⁰² Responsibility of States for internationally wrongful acts, with commentaries (see [A/CN.4/SER.A/2001/Add.1 \(Part 2\)](#), p. 35).

²⁰³ Leanne Betasamosake Simpson, *As We have Always Done: Indigenous Freedom Through Radical Resistance* (Minneapolis, University of Minnesota Press, 2017), p. 15.

V. “Totality triple lens”: Israeli intent towards the Palestinians as a group as such

54. The current intent to destroy the people as such could not be more evident from Israeli conduct when viewed in its totality. In this section, the Special Rapporteur applies the framework set out above to the totality of conduct targeting the totality of Palestinians, in the totality of the occupied Palestinian territory (“totality triple lens”). She then analyses specific components of Israeli conduct: the broader context of the political project of Israel in the region; the nature of the destruction inflicted on the Palestinian people; and the motives obscuring the specific intent itself.

A. Totality of the land: “Greater Israel”

55. The ambition for a “Greater Israel” (*Eretz Yisrael*), consolidating Jewish sovereignty over the territory now comprising both Israel and the occupied Palestinian territory, has been a long-standing goal since the very inception of the Zionist project and before Israel existed.²⁰⁴ The legally recognized right to self-determination of Palestinians being tied to that land,²⁰⁵ together with their large presence, have represented both legal and demographic impediments to the realization of “Greater Israel”.

56. Successive Governments have pursued this goal, predicated on the erasure of the Indigenous Palestinian people.²⁰⁶ Even after the Oslo Accords, which marked international support for a two-State solution, the plan was advanced.²⁰⁷ Since then, Israeli colonies have increased from 128 to 358,²⁰⁸ and settler numbers have grown from 256,400²⁰⁹ to 714,600.²¹⁰ The 2018 Nation State Law asserted exclusive Jewish sovereignty over “Eretz Yisrael” and “Jewish settlement” in that area as a national priority.²¹¹ On 28 December 2022, the current Government of Israel announced its plan to expand the colonies in the West Bank²¹² and aggressively advanced substantial land confiscation and settlement expansion. In September 2023, before the General

²⁰⁴ Itzhak Galnoor, *The Partition of Palestine: Decision Crossroads in the Zionist Movement* (Albany, State University of New York Press, 1995), p. 66.

²⁰⁵ [A/77/356](#), paras. 25–32.

²⁰⁶ *Ibid.*, paras. 38–40; Fayeze Sayegh, *Zionist Colonialism in Palestine* (Beirut, Research Centre, Palestine Liberation Organization, 1965), p. 27; and Nadav G. Shelef, “From ‘Both Banks of the Jordan’ to the ‘Whole Land of Israel’: ideological change in revisionist Zionism”, *Israel Studies*, vol. 9, No. 1 (2004), pp. 125–148.

²⁰⁷ See www.timesofisrael.com/knesset-votes-overwhelmingly-against-palestinian-statehood-days-before-pms-us-trip/; www.timesofisrael.com/netanyahu-boasts-of-thwarting-the-establishment-of-a-palestinian-state-for-decades/; and www.bbc.com/news/world-middle-east-68025945.

²⁰⁸ See <https://peacenow.org.il/en/30-years-after-oslo-the-data-that-shows-how-the-settlements-proliferated-following-the-oslo-accords>; and <https://peacenow.org.il/en/settlements-watch/settlements-data/population>.

²⁰⁹ See <https://peacenow.org.il/en/30-years-after-oslo-the-data-that-shows-how-the-settlements-proliferated-following-the-oslo-accords>.

²¹⁰ See www.un.org/unispal/wp-content/uploads/2024/08/One-Year-Report-on-Israeli-Settlements-in-the-occupied-West-Bank-including-East-Jerusalem-Reporting-period-January-December-2023.pdf.

²¹¹ See www.badil.org/cached_uploads/view/2021/04/20/nationstatelaw-positionpaper-badil-oct2018-1618905362.pdf, pp. 11–12; and <https://main.knesset.gov.il/EN/activity/Documents/BasicLawsPDF/BasicLawNationState.pdf>.

²¹² *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, 19 July 2024, I.C.J. Reports 2024*, para. 170.

Assembly, Prime Minister Netanyahu exhibited a map of Israel erasing the occupied Palestinian territory and superimposing Israel.²¹³

57. The cultivation of a political doctrine²¹⁴ that frames Palestinian assertions of self-determination as a security threat to Israel has served to legitimize permanent occupation.²¹⁵ The deliberate dehumanization of the Palestinians has accompanied systematic ethnic purges from the period 1947–1949 to today.²¹⁶ Ideological hatred of Palestinians as such has pervaded segments of society and the Israeli State apparatus.²¹⁷

58. Meanwhile, despite the oppression, Palestinians refuse to leave the land, and in fact the population has grown. The increasing risk of a majority-Jewish State becoming unachievable has progressively made destruction an unavoidable part of the process.²¹⁸

59. The events of 7 October provided the impetus to advance towards the goal of a “Greater Israel”. Calls for the displacement of Palestinians into the Arab world, amid conquest, colonization and annexation, grew.²¹⁹ The leaked Ministry of Intelligence of Israel “concept paper” from October 2023 outlining the expulsion of the entire Gaza population to Egypt,²²⁰ alongside widespread and explicit support within the governing coalition,²²¹ identifies an opportunity to recolonize Gaza,²²² which the Government seized, taking advantage of the fog of war. In parallel in the West Bank, following 7 October, annexation and colony construction intensified.²²³

60. The State’s intent to destroy, expressed in various statements and plans, and inferable from conduct considered in context, has gradually become more recognizable. This conduct had already, prior to 7 October, had the effect of “a cumulative, multilayered and intergenerational impact on the Palestinian society,

²¹³ See www.timesofisrael.com/full-text-of-netanyahus-un-address-on-the-cusp-of-historic-saudi-israel-peace/.

²¹⁴ See International Tribunal for the Former Yugoslavia, *The Prosecutor v. Radovan Karadžić and Ratko Mladić*, Case No. IT-95-5-R61; IT-95-18-R6I, Rule 61 Review of the Indictments, 11 July 1996, paras. 94–95; and International Criminal Tribunal for Rwanda, *The Prosecutor v. Jean-Paul Akayesu*, Case No. ICTR-96-4-T, Judgment, 2 September 1998, para. 524.

²¹⁵ [A/78/545](#), para. 13; [A/HRC/53/59](#), paras. 4, 36–37 and 42; *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, 19 July 2024, I.C.J. Reports 2024*, paras. 47 and 205, see also, Declaration of Judge Charlesworth, para. 16.

²¹⁶ Idith Zertal, *Israel’s Holocaust and the Politics of Nationhood* (Cambridge, Cambridge University Press, 2009), pp. 174 and 196.

²¹⁷ Nadera Shalhoub-Kevorkian, *Security Theology, Surveillance and the Politics of Fear* (Cambridge, Cambridge University Press, 2015), p. 14.

²¹⁸ See *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment, *I.C.J. Reports 2007*, p. 43, para. 372.

²¹⁹ See www.i24news.tv/en/news/israel-at-war/artc-i24news-exclusive-former-fm-eli-cohen-says-saudi-could-accept-normalization-without-palestinian-state.

²²⁰ See <https://www.mekomit.co.il/%d7%94%d7%9e%d7%a1%d7%9e%d7%9a-%d7%94%d7%9e%d7%9c%d7%90-%d7%a9%d7%9c-%d7%9e%d7%a9%d7%a8%d7%93-%d7%94%d7%9e%d7%95%d7%93%d7%99%d7%a2%d7%99%d7%9f-%d7%9b%d7%99%d7%91%d7%95%d7%a9-%d7%a2%d7%96%d7%94-%d7%95/>; and <https://apnews.com/article/israel-gaza-population-transfer-hamas-egypt-palestinians-refugees-5f99378c0af6aca183a90c631fa4da5a>.

²²¹ See <https://x.com/MiddleEastEye/status/1747967081541255628>; <https://t.me/bengvir/4294> (translated in <https://x.com/KhaledYousry22/status/1798729352412319874>); www.youtube.com/watch?v=I3XLt2yXGI; and www.aljazeera.com/news/2024/1/29/israeli-ministers-join-gathering-calling-for-rebuilding-settlements-in-gaza.

²²² See www.haaretz.com/israel-news/2024-01-28/ty-article/ministers-from-netanyahus-party-jointhousands-of-israelis-at-resettle-gaza-conference/0000018d-512f-dfdc-a5ad-db7f35e10000.

²²³ [A/79/347](#), paras. 6 and 15–17.

economy and environment and [had caused] the deterioration of the living conditions of the Palestinians”.²²⁴

61. The violence and trauma suffered by the Israelis on 7 October deepened collective animosity, and calls for annihilation grew.²²⁵ In a manner reminiscent of other genocides, the ensuing vengeful atmosphere prepared the soldiers to become “willing executioners” of the heinous tasks required of them.²²⁶ An opportunity presented itself to sever Palestinian connection to the land, with foreseeable consequences for their Palestinian existence,²²⁷ as outlined below.

B. Totality of the group: destruction of the Palestinian people

62. Since 7 October 2023, the decimation of Palestinian human life has been swift and extensive. Amid mass killings, eradication of family lines, large-scale targeting of children and torture, the occupied Palestinian territory is being intentionally rendered unliveable – one home, school, church, mosque, hospital, neighbourhood, community, at a time. Spreading from Gaza to the West Bank, calculated destruction reveals a deliberate campaign of connected incidents, which must be considered cumulatively.

63. Israel has pursued a pattern of conduct “deliberately inflicting on the group conditions of life calculated to bring about its physical destruction”,²²⁸ as evidenced by the systematic destruction of already precarious life-sustaining healthcare, food security and Water, Sanitation and Hygiene for All (WASH) infrastructure. Although varying in intensity across the occupied territory, in Gaza this destructive violence has already led to starvation, epidemics and forced displacement with no possibility of safe return – as expressly intended. The destruction of infrastructure across the occupied Palestinian territory imperils the long-term survival of the group. The deliberate degradation of public health is a technique of genocide “by attrition”.²²⁹ More than 500,000 children with no schooling and 88,000 students without universities²³⁰ are doomed to dire outcomes.

64. For Palestinians, further layers of agony and forced displacement aggravate their inherited trauma and psychological vulnerability as Nakba survivors.²³¹ Months of relentless shunting of weakened humans from one unsafe area to another – fleeing bombs and bullets, with minimal chances of escape, amid loss, fear and grief, and with little access to shelter, clean water, food and healthcare – have inflicted

²²⁴ *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, 19 July 2024, I.C.J. Reports 2024*, para. 242.

²²⁵ Martin Shaw, “Palestine in an international historical perspective on genocide”, *Holy Land Studies*, vol. 9, No. 1 (May 2010), p. 20.

²²⁶ William Schabas, “Hate speech in Rwanda: the road to genocide”, in *Genocide and Human Rights*, Mark Lattimer, ed. (London, Routledge, 2017), p. 261.

²²⁷ See paras. 46–48 (above).

²²⁸ Convention on the Prevention and Punishment of the Crime of Genocide, art. II (c).

²²⁹ See www.aljazeera.com/opinions/2024/9/2/polio-and-israels-attrition-genocide-in; and International Criminal Tribunal for Rwanda, *The Prosecutor v. Clement Kayishema and Obed Ruzindana*, Case No. ICTR-95-1-T, Judgment, 21 May 1999, paras. 115–116.

²³⁰ See <https://www.thenation.com/article/world/gaza-students-future/>; and www.bbc.co.uk/news/world-middle-east-68023080.

²³¹ International Tribunal for the Former Yugoslavia, *Prosecutor v. Zdravko Tolimir*, Case No. IT-05-88/2-T, Judgment, 12 December 2012, para. 742.

incalculable harm, especially on children.²³² The movement of displaced Palestinians resembles the death marches of past genocides, and the Nakba. Forced displacement severs connection with the land, undermining food sovereignty and cultural belonging, and triggering further displacement.²³³ Communal bonds are broken, the social fabric shredded and reserves of resilience depleted. Systematic forced displacement contributes to “the destruction of the spirit, of the will to live, and of life itself”.²³⁴

65. As was foreseeable, the overall conduct of Israel post-7 October has inflicted severe psychological harm on all Palestinians, both direct victims and those witnessing in exile. The overall aim is to humiliate and degrade Palestinians as a whole. Prisoners stripped and sadistically tortured en masse; bodies of adults and children piled up and decomposing in the street; survivors forced to eat animal food and grass and drink seawater or even sewage; the maiming of thousands, including young children left limbless before they could even crawl; the destruction of homes and violation of intimate life; having absolutely nothing to return to. Mass graves and the exhumation and relocation of bodies are specific acts of desecration, which themselves can suggest genocidal intent.²³⁵ Combined, these acts go far beyond what international jurisprudence recognizes as “step[s] in the process of destruction of the ... group”.²³⁶ The pain and loss will impact generations to come.²³⁷

66. Genocide could manifest in the targeting of members of the same group in different parts of their territory, through acts of varying intensity.²³⁸ In the background, Palestinians inside Israel (“the enemies within”) have also experienced suppression.²³⁹ The relentless attacks against the United Nations, and, in particular, UNRWA, threaten the socioeconomic lifelines of millions of Palestinian refugees across the broader region, and cannot be ignored.

67. The destructive consequences of Israeli conduct reverberate well beyond the Gaza epicentre, as the same patterns of genocidal conduct have begun to appear in the West Bank. The only inference to be reasonably drawn from all this is of a clear

²³² A/78/545, para. 21; International Criminal Tribunal for Rwanda, *The Prosecutor v. Jean-Paul Akayesu*, Case No. ICTR-96-4-T, Judgment, 2 September 1998, para. 121; International Tribunal for the Former Yugoslavia, *Prosecutor v. Zdravko Tolimir*, Case No. IT-05-88/2-T, Judgment, 12 December 2012, para. 742; International Criminal Tribunal for Rwanda, *The Prosecutor v. Clement Kayishema and Obed Ruzindana*, Case No. ICTR-95-1-T, Judgment, 21 May 1999, paras. 532–533; and Joint Declaration of Intervention of Canada, Denmark, France, Germany, the Netherlands and the United Kingdom (to the case of *The Gambia v. Myanmar*), paras. 67–71.

²³³ A/79/171, paras. 80 and 110–111; and www.ohchr.org/sites/default/files/documents/issues/food/2024-08-27-visuals-palestinian-people-food-sovereignty.pdf, pp. 6 and 12.

²³⁴ International Criminal Tribunal for Rwanda, *The Prosecutor v. Jean-Paul Akayesu*, Case No. ICTR-96-4-T, Judgment, 2 September 1998, para. 732.

²³⁵ International Tribunal for the Former Yugoslavia, *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-T, para. 596; www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-99; www.unocha.org/publications/report/occupied-palestinian-territory/hostilities-gaza-strip-and-israel-flash-update-158; and www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-164.

²³⁶ International Criminal Tribunal for Rwanda, *The Prosecutor v. Jean-Paul Akayesu*, Case No. ICTR-96-4-T, Judgment, 2 September 1998, para. 732.

²³⁷ International Criminal Court, Trial Chamber VI, *The Prosecutor v. Bosco Ntaganda*, Case No. ICC-01/04-02/06-2659, Reparations Order, 8 March 2021, paras. 73–74; International Criminal Court, *The Prosecutor v. Dominic Ongwen*, Case No. ICC-02/04-01/15, Reparations Order, 28 February 2024, paras. 410–412.

²³⁸ Shaw, “Palestine in an international historical perspective”, pp. 3–6.

²³⁹ See <https://zeteco.com/p/palestinian-israel-gaza-genocide-arab-citizens>; and www.adalah.org/en/content/view/11158.

intention to attack “the group’s capacity to renew itself, and hence to ensure its long-term survival”.²⁴⁰

C. Totality of the conduct: genocidal intent rationalized as self-defence

68. In the face of such wholesale destruction, the stated goals of Israel, accepted by some States, remain “to eradicate Hamas”²⁴¹ and “bring the hostages home”.²⁴² Neither of these goals, or motives, preclude a finding of genocidal intent as the only reasonable inference to be drawn. Instead, both motives, together and disjunctively, substantiate the genocidal intent.

69. History reveals that:

(a) As recognized in the jurisprudence, genocide may occur in the context of armed conflict.²⁴³ As Judge Trindade elaborated: “perpetrators of genocide will almost always allege that ... their actions were taken ‘pursuant to an ongoing military conflict’; yet, ‘genocide may be a means for achieving military objectives just as readily as military conflict may be a means for instigating a genocidal plan’.”²⁴⁴

(b) Different underlying motives do not displace genocidal intent.²⁴⁵ As observed by Judge Bhandari, “genocidal *intent* may exist *simultaneously* with other, *ulterior motives*”.²⁴⁶ In international criminal jurisprudence, intent (the aim to achieve a criminal result: destruction of the group) is distinguished from motive (the reasons behind an action: hatred,²⁴⁷ revenge/collective punishment,²⁴⁸ personal political

²⁴⁰ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia), Judgment, I.C.J. Reports 2015*, p. 3, para. 136.

²⁴¹ See <https://news.un.org/en/story/2023/10/1142847>.

²⁴² *Ibid.*

²⁴³ International Tribunal for the Former Yugoslavia, *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-T, para. 572.

²⁴⁴ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia), Judgment, I.C.J. Reports 2015*, p. 3, see Dissenting Opinion of Judge Cançado Trindade, para. 144.

²⁴⁵ Consider Genocide Convention, *Travaux Préparatoires*, A/C.6/SR.77, pp. 131–133; and A/C.6/SR.75, p. 117.

²⁴⁶ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia), Judgment, I.C.J. Reports 2015*, p. 3, see Separate Opinion of Judge Bhandari, para. 50 (emphasis in original).

²⁴⁷ International Tribunal for the Former Yugoslavia, *The Prosecutor v. Goran Jelisić*, Case No. IT-95-10-T, Judgment, 14 December 1999, para. 79.

²⁴⁸ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia), Judgment, I.C.J. Reports 2015*, p. 3, see Separate Opinion of Judge Bhandari, para. 50; S/2005/60, para. 493; and International Criminal Tribunal for Rwanda, *The Prosecutor v. Clément Kayishema and Obed Ruzindana*, Case No. ICTR-95-1-A, Appeal Judgment, 1 June 2001, para. 161.

agendas,²⁴⁹ alleged threat²⁵⁰).²⁵¹ Although motive is usually irrelevant in criminal law,²⁵² it can reveal intent.²⁵³

70. Post-7 October, Israel has framed its military operations in Gaza as a war of self-defence²⁵⁴ and counter-terrorism²⁵⁵ against a terrorist group.²⁵⁶ However, it is well established that Israel cannot legitimately invoke self-defence against the population under its occupation.²⁵⁷ The occupying Power must protect, not target, the occupied people. In the context of Israel ignoring the ICJ directive to end the unlawful occupation, the aim to eradicate resistance contradicts the rights to self-determination and to resist an oppressive regime, protected by customary international law.²⁵⁸ It also portrays the entire population as engaged in resistance and therefore eliminable. By continuing to suppress the right to self-determination,²⁵⁹ Israel is replicating historical instances in which self-defence, counter-insurgency or counter-terrorism were used to justify destruction of the group, leading to genocide.²⁶⁰

71. With the dehumanization of Palestinians reaching a peak,²⁶¹ the world has become inured to the individual and collective toll of their devastation. In Gaza, Israel has targeted both military operatives and ordinary civilians, including from local

²⁴⁹ International Tribunal for the Former Yugoslavia, *Prosecutor v. Goran Jelisić*, Case No. IT-95-10-A, Appeal Judgment, 5 July 2001, para. 49; and International Tribunal for the Former Yugoslavia, *Prosecutor v. Milorad Krnojelac*, Case No. IT-97-25-A, Appeal Judgment, 17 September 2003, para. 102.

²⁵⁰ International Criminal Tribunal for Rwanda, *The Prosecutor v. Clement Kayishema and Obed Ruzindana*, Case No. ICTR-95-1-T, Judgment, 21 May 1999, paras. 309–310; International Criminal Court, *The Prosecutor v. Omar Hassan Ahmad Al Bashir*, Case No. ICC-02/05-01/09, (First) Warrant of Arrest Judgment, 4 March 2009, see Separate and Partly Dissenting Opinion of Judge Anita Usacka, para. 65.

²⁵¹ International Tribunal for the Former Yugoslavia, *Prosecutor v. Tihomir Blaškić*, Case No. IT-95-14-A, Appeal Judgment, 29 July 2004, para. 694; International Residual Mechanism for Criminal Tribunals, *Prosecutor v. Radovan Karadžić*, Case No. MICT-13-55-A, Appeal Judgment, 20 March 2019, para. 722; and International Tribunal for the Former Yugoslavia, *Prosecutor v. Milomir Stakić*, Case No. IT-97-24-A, Appeal Judgment, 22 March 2006, para. 45.

²⁵² International Tribunal for the Former Yugoslavia, *Prosecutor v. Duško Tadić*, Case No. IT-94-1-A, Appeal Judgment, 15 July 1999, paras. 268–269.

²⁵³ *Tihomir Blaškić*, Case No. IT-95-14-A, Appeal Judgment, 29 July 2004, para. 694; International Residual Mechanism for Criminal Tribunals, *Prosecutor v. Dragoljub Kunarac, Radomir Kovač and Zoran Vuković*, Case No. IT-96-23-A & IT-96-23/1-A, Judgment, 12 June 2002, para. 153.

²⁵⁴ See <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240112-ora-01-00-bi.pdf>, para. 4.

²⁵⁵ See www.youtube.com/watch?v=sM7Hc7a0vZY; <https://x.com/IsraeliPM/status/1745501853016523013>; and www.gov.il/en/pages/opening-statement-of-mfa-legal-advisor-tal-becker-at-icj-proceedings-12-jan-2024.

²⁵⁶ See www.israelnationalnews.com/news/382632.

²⁵⁷ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, 9 July 2004, *I.C.J. Reports 2004*, p. 136, para. 139; and *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion*, 19 July 2024, *I.C.J. Reports 2024*, see Declaration of Judge Tladi, para. 48.

²⁵⁸ General Assembly resolution 37/43, para. 2; *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion*, 19 July 2024, *I.C.J. Reports 2024*, see Declaration of Judge Charlesworth, paras. 23–24; *Western Sahara, Advisory Opinion*, *I.C.J. Reports 1975* p. 12, see Separate Opinion of Vice President Ammoun, para. 100; and General Assembly resolution 1514 (XV).

²⁵⁹ *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion*, 19 July 2024, *I.C.J. Reports 2024*, paras. 257, 261–262, 267, 272 and 274.

²⁶⁰ E.g. Martin Shaw, “Darfur: counter-insurgency, forced displacement and genocide”, *British Journal of Sociology*, vol. 62, No. 1 (March 2011), p. 59; and A/HRC/39/CRP.2, paras. 99, 1124 and 1480.

²⁶¹ Regarding Israel, see www.972mag.com/dehumanization-moral-abyss-israelis/.

governance structures and civil servants.²⁶² Expanding full-scale military operations to the West Bank further exposes an aim to target Palestinians beyond Hamas.

72. As the President of Israel, Isaac Herzog, announced, Israel has operated on the basis that “it is an entire nation out there that is responsible”.²⁶³ The entire population – deemed “non-innocent” and “not uninvolved” by Israel – has been subject to indiscriminate and disproportionate attacks.²⁶⁴ Scorched-earth tactics have spread terror among civilians, far exceeding the bounds of legitimate force. Continual, unproven attributions of Hamas affiliation and allegations of “human shielding” in almost every assault help disguise the systematic targeting of civilians, de facto erasing Palestinian civilian-ness altogether.²⁶⁵ The resulting incommensurate losses sustained by Palestinians compared with Israeli losses,²⁶⁶ viewed in the context of the vastly superior Israeli military capabilities,²⁶⁷ suggest an intent other than that claimed.²⁶⁸

73. The disturbing frequency and callousness of the killing of people known to be civilians are “emblematic of the systematic nature” of a destructive intent.²⁶⁹ Six-year-old Hind Rajab, killed with 355 bullets after pleading for help for hours;²⁷⁰ the fatal mauling by dogs of Muhammed Bhar, who had Down’s Syndrome;²⁷¹ the execution of Atta Ibrahim Al-Muqaid, an older deaf man, in his home, later bragged about by his killer and other soldiers on social media;²⁷² the premature babies deliberately left to die a slow death and decompose in the intensive care unit at Al-Nasr Hospital;²⁷³ the elderly man, Bashir Hajji, killed en route to southern Gaza after appearing in a propaganda photograph of a “safe corridor”;²⁷⁴ Abu al-Ola, the handcuffed hostage shot by a sniper after being sent into Nasser Hospital with evacuation orders.²⁷⁵ When the dust settles on Gaza, the true extent of the horror experienced by Palestinians will become known.

74. The second stated goal of Israel is to rescue Israeli hostages.²⁷⁶ This claim has been undermined by the harm caused by Israel to the hostages themselves: more have been killed by indiscriminate Israeli bombing or friendly fire than rescued.²⁷⁷

²⁶² See <https://opiniojuris.org/2024/08/02/reflecting-on-genocidal-intent-in-the-icj-case/>.

²⁶³ See www.huffingtonpost.co.uk/entry/israel-gaza-isaac-herzog_n_65295ee8e4b03ea0c004e2a8.

²⁶⁴ See www.ohchr.org/sites/default/files/documents/countries/opt/20240619-ohchr-thematic-report-indiscrim-disprop-attacks-gaza-oct-dec2023.pdf; and A/HRC/55/73, paras. 58–75.

²⁶⁵ A/HRC/55/73, para. 55; and <https://jewishcurrents.org/human-shields-gaza-israel-a-legal-justification-for-genocide>.

²⁶⁶ See www.gov.il/en/pages/swords-of-iron-idf-casualties.

²⁶⁷ International Tribunal for the Former Yugoslavia, *Prosecutor v. Mile Mrkšić and Others*, Case No. IT-95-13/1-T, Judgment, 27 September 2007, paras. 470–472.

²⁶⁸ A/HRC/39/CRP.2, paras. 1435–1436.

²⁶⁹ International Criminal Tribunal for Rwanda, *The Prosecutor v. Ildéphonse Nizeyimana*, Case No. ICTR-2000-55C-T, Judgment, 19 June 2012, paras. 1521 and 1530; and *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, Judgment, I.C.J. Reports 2015, p. 3, see Separate Opinion of Judge Bhandari, paras. 28–31.

²⁷⁰ See <https://forensic-architecture.org/investigation/the-killing-of-hind-rajab>.

²⁷¹ See www.bbc.com/news/articles/cz9drj14e0lo.

²⁷² See www.aljazeera.net/news/2024/3/9/%D8%AA%D9%81%D8%A7%D8%B5%D9%8A%D9%84-%D8%B9%D9%86-%D8%AA%D8%B5%D9%81%D9%8A%D8%A9-50-%D9%85%D8%AF%D9%86%D9%8A%D8%A7-%D8%A7%D9%84%D8%AC%D8%B2%D9%8A%D8%B1%D8%A9-%D8%AA%D9%83%D8%B4%D9%81.

²⁷³ See www.washingtonpost.com/world/2023/12/03/gaza-premature-babies-dead-nasr/.

²⁷⁴ See <https://x.com/IsraelArabic/status/1724371929413365779>; and www.middleeasteye.net/news/israel-palestine-war-army-kills-elderly-taking-pr-photo-safe-corridor.

²⁷⁵ See <https://theintercept.com/2024/02/14/gaza-nasser-hospital-evacuation-israel-prisoner/>.

²⁷⁶ See www.thejc.com/news/israel/netanyahu-vows-to-stick-to-the-goals-of-the-war-ovyuo10s; and www.brookings.edu/events/analyzing-israels-strategy-in-gaza/.

²⁷⁷ See www.nbcnews.com/news/world/american-hostages-hamas-gaza-kidnapped-rcna170170.

Sabotaging the ceasefire negotiations resulted in hostage deaths.²⁷⁸ The words and conduct of Israeli high-ranking officials,²⁷⁹ including Prime Minister Netanyahu, indicate that regaining and retaining control over Gaza's territory has overridden the release of hostages as a priority.²⁸⁰

VI. Understanding genocidal intent within a State

75. Accountability for genocide cannot be limited to criminal responsibility of individuals, who are to be judged in criminal trials with due process guarantees. It would be a tragic paradox if the rights of victims were subordinated to the guarantees afforded to alleged perpetrators and their Governments.²⁸¹ Furthermore, the responsibility of the State must be assessed in its own right. The moment one genocidal act occurs and the special intent manifests, this signals that genocide is taking place. This is the moment to intervene – early intervention being the only way to prevent more atrocities that will scar human history.

76. State responsibility entails actions and omissions that lead to genocide.²⁸² Conduct attributable to the State includes executive, legislative, judicial or any other functions or actions carried out by State organs²⁸³ and legal persons with government authority²⁸⁴ (even *ultra vires* actions).²⁸⁵ This includes military personnel and persons acting under instructions or control of a State,²⁸⁶ or conduct acknowledged by the State as its own.²⁸⁷ All such conduct should be assessed in its totality.

77. A State is obliged to prevent, to not commit and to punish genocide. According to ICJ, the State obligation to prevent genocide arises as soon as the State becomes aware, or should reasonably be aware, of a “serious risk of genocide”,²⁸⁸ and specifically on the emergence of a reasonable suspicion that genocidal intent has formed within the State apparatus. The State is obliged to investigate and prosecute those suspected of committing genocide and ancillary offences of direct and public incitement, attempt, aid and assist and conspiracy.²⁸⁹ Knowing the risk of genocide,

²⁷⁸ See www.theguardian.com/world/article/2024/jul/07/israeli-government-accused-of-trying-to-sabotage-gaza-ceasefire-proposal; www.haaretz.com/israel-news/2024-07-10/ty-article-timeline/premium/how-netanyahu-has-systematically-foiled-talks-to-release-hostages-from-hamas-captivity/00000190-9b91-d591-a7ff-fff341120000; www.haaretz.com/israel-news/2024-09-05/ty-article/premium/rattled-by-global-rebuke-netanyahu-scrambles-to-fend-off-charges-of-sabotaging-gaza-deal/00000191-c140-d2e0-a7d5-ddd270f10000; www.timesofisrael.com/gallant-tells-families-all-for-all-hostage-offer-phony-pushes-military-pressure/; www.timesofisrael.com/no-doubt-netanyahu-preventing-hostage-deal-charges-ex-spokesman-of-families-forum/; www.timesofisrael.com/stop-sabotaging-hostage-families-slam-netanyahu-in-rallies-in-tel-aviv-jerusalem/; www.bbc.com/news/articles/cp4wggypwrxo; and www.nbcnews.com/news/netanyahu-added-conditions-complicated-gaza-negotiations-officials-say-rcna166503.

²⁷⁹ See www.huffingtonpost.co.uk/entry/israeli-government-spokesman-says-war-will-continue-even-if-all-hostages-are-released_uk_655db93ee4b0662eb43c2cf0.

²⁸⁰ See www.gov.il/en/pages/event-press040924.

²⁸¹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia), Judgment, I.C.J. Reports 2015*, p. 3, see Dissenting Opinion of Judge Cañado Trindade, paras. 145–146.

²⁸² Responsibility of States for internationally wrongful acts, art. 2.

²⁸³ *Ibid.*, art. 4.

²⁸⁴ *Ibid.*, art. 5.

²⁸⁵ *Ibid.*, art. 7.

²⁸⁶ *Ibid.*, art. 8.

²⁸⁷ *Ibid.*, art. 11.

²⁸⁸ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment, I.C.J. Reports 2007*, p. 43, para. 431.

²⁸⁹ Convention on the Prevention and Punishment of the Crime of Genocide, arts. III (b)–III (d).

but failing to act to prevent or to take action to punish these preparatory acts, should be taken as indication of genocidal intent.²⁹⁰

78. In autocratic governance systems, checks and balances to curb genocidal conduct are likely either non-existent or non-functioning. Conversely, in a State that claims to have a rule of law system, the legislature, executive or judiciary should be able to curb excesses (generally crimes in and of themselves) that may escalate into genocide. All State organs understand their function as a check on the excesses of others – primarily the executive’s. The failure of an apparent rule of law State apparatus to fulfil those obligations, knowing what the consequences will be, must be seen as an integral part of the totality of conduct that should be assessed when determining State genocidal intent.

79. Acts or omissions of a State may contribute to “the opportunity to commit genocide”, a circumstantial factor that ICJ has considered when assessing inferences to be drawn.²⁹¹ Jurisprudence also recognizes that “the prevailing atmosphere of impunity”²⁹² and “the encouragement of the authorities” may increase the possibility of crimes leading to genocide.²⁹³

80. A conservative assessment would lead to the conclusion that, at a minimum, the orders of ICJ on 26 January 2024 should have triggered this duty to act. The Court had specifically instructed Israel to:²⁹⁴

- Refrain from further acts that may amount to genocide
- Prevent and punish genocidal incitement
- Allow humanitarian assistance
- Preserve evidence
- Submit a report to the Court detailing steps taken to implement the ruling within one month

81. Instead, genocidal violence continued in Gaza with serious risk of expanding to the West Bank amid increasing genocidal incitement, as demonstrated in section III of the present report. No one has been investigated or prosecuted, let alone punished. Immediately after the Court issued provisional measures, Israel launched an unsubstantiated campaign against UNRWA, which jeopardized the fragile lifelines necessary for humanitarian assistance in Gaza.²⁹⁵ The following examples offer a snapshot of how various arms of the State have participated in forming the State’s intent:

(a) Statements made by the political-military leadership must be adjudicated as evidence of both direct intent and part of the totality of conduct from which intent

²⁹⁰ International Tribunal for the Former Yugoslavia, *Prosecutor v. Karadžić*, Case No. IT-95-5/18-T, Judgment, 24 March 2016, paras. 3425, 3433, 3514, 3520, 4866–4867, 6047 and 6049.

²⁹¹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, Judgment, *I.C.J. Reports 2015*, p. 3, paras. 431–437.

²⁹² International Tribunal for the Former Yugoslavia, *Prosecutor v. Zdravko Tolimir*, Case No. IT-05-88/2-T, Judgment, 12 December 2012, para. 1150.

²⁹³ International Criminal Tribunal for Rwanda, *The Prosecutor v. Clément Kayishema and Obed Ruzindana*, Case No. ICTR-95-1-T, Judgment, 21 May 1999, para. 290. See also International Tribunal for the Former Yugoslavia, *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-A, Appeal Judgement, 19 April 2004, paras. 13 and 148–149; and International Tribunal for the Former Yugoslavia, *Prosecutor v. Karadžić*, Case No. IT-95-5/18-T, Judgment, 24 March 2016, para. 6047.

²⁹⁴ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Order, 26 January 2024, *I.C.J. Reports 2024*, para. 86.

²⁹⁵ See www.ohchr.org/en/press-releases/2024/02/states-must-reinstate-and-strengthen-support-unrwa-amid-unfolding-genocide.

is inferable. Direct orders at the highest levels of Israeli leadership, as meticulously documented by South Africa,²⁹⁶ are the hallmark of the genocide in Gaza. These genocidal statements and incitements have continued unabated throughout the past year and echoed at all levels of the military structure. Relentless genocidal incitement by Israeli officials hastened the “normalization” of exterminatory violence;

(b) The members of the Security and War Cabinets of Israel, and other ministers, have issued such genocidal statements and used their ministerial responsibilities to implement their words, authorizing the various genocidal acts in Gaza, such as starvation, obstruction of humanitarian assistance and creation of conditions of life that would lead to destruction;²⁹⁷

(c) The Knesset has fully supported the Government and provided a platform for utterly dehumanizing debates concerning Palestinians. The Deputy Speaker declared on 8 October 2023, “Now we all have one common goal – erasing the Gaza Strip from the face of the Earth”.²⁹⁸ The Knesset has passed emergency laws,²⁹⁹ amendments and repeated extensions to the *Detention of Unlawful Combatants Law*, thereby facilitating the imposition of even more deplorable conditions on Palestinian detainees;³⁰⁰ condoned torture, including rape of Palestinian detainees (derogatively called “Nukhba”),³⁰¹ and approved budgets for military and colony expansion.³⁰² In July 2024, the Knesset voted against the two-State solution;³⁰³

(d) The Attorney General has failed to investigate and prosecute acts preparatory to and associated with genocide, such as war crimes, torture and starvation,³⁰⁴ and to implement the provisional measures against genocidal incitement,³⁰⁵ while pursuing those “inciting” support for Palestinian resistance.³⁰⁶ This draws on and consolidates the long-standing environment of impunity recognized by ICJ;³⁰⁷

(e) The judiciary has failed to impose limitations on criminal conduct and administrative excesses, or enforce any accountability, in almost 12 months,

²⁹⁶ See S/2024/419; and A/HRC/55/73, para. 50.

²⁹⁷ E.g., see www.timesofisrael.com/liveblog_entry/israel-cuts-electricity-supply-to-gaza/; and <https://oxfamlibrary.openrepository.com/bitstream/10546/621609/1/bp-water-war-crimes-180724-en.pdf>, pp. 15–16.

²⁹⁸ See www.bbc.com/news/articles/cze5w2wd4x0o.

²⁹⁹ See <https://en.idi.org.il/articles/51115>; and www.knesset.tv/parliament/1307/61096/.

³⁰⁰ See www.btselem.org/sites/default/files/publications/202408_welcome_to_hell_eng.pdf, pp. 31–32.

³⁰¹ See <https://x.com/ireallyhateyou/status/1817904053462196523>; and www.aljazeera.com/news/2024/7/29/israeli-far-right-politicians-protest-arrest-of-soldiers-suspected-of-abuse.

³⁰² See www.gov.il/BlobFolder/reports/seder-gov120424/he/Seder_Gov_n563-140124.pdf; www.gov.il/BlobFolder/reports/seder-gov120424/he/Seder_Gov_n563-140124.pdf; and www.aljazeera.com/news/2024/1/16/israels-new-15bn-war-budget-whats-it-for-and-what-gets-cut.

³⁰³ See <https://main.knesset.gov.il/EN/News/PressReleases/Pages/press18724w.aspx>.

³⁰⁴ See https://hamoked.org/files/2024/1666540_eng.pdf, p. 29; www.aljazeera.com/opinions/2024/7/16/israeli-courts-cannot-and-will-not-prosecute-israels-war-crimes; www.crisisgroup.org/middle-east-north-africa/east-mediterranean-mena-israelpalestine/246-stemming-israeli-settler-violence; and www.adalah.org/en/content/view/11095.

³⁰⁵ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Order, 26 January 2024, I.C.J. Reports 2024, para. 86 (3).

³⁰⁶ See www.gov.il/en/pages/news-26-11.

³⁰⁷ *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion*, 19 July 2024, I.C.J. Reports 2024, paras. 150–154. See also A/HRC/39/CRP.2, para. 1423.

effectively granting impunity to public officials, military personnel and settlers.³⁰⁸ Courts dismissed a petition regarding Palestinian prison conditions³⁰⁹ and rejected an appeal relating to media access to Gaza.³¹⁰ Following the ICJ provisional measures order, the High Court did agree to hear a petition on humanitarian aid to Gaza in March 2024,³¹¹ and others on torture and conditions of detention.³¹² However, no persons or institutions have been held accountable;

(f) The role of the Israeli media in inciting this genocide, by helping to foster an unchecked genocidal climate, ought to be examined judicially – as has occurred in other contexts.³¹³ Compounding decades of dehumanization of the Palestinians,³¹⁴ the media have platformed proponents of genocide and debates legitimating their brutalization³¹⁵, and have withheld the facts from the Israeli public. State actions have exacerbated the situation, including heavy military censorship,³¹⁶ the killing of 111 Palestinian journalists,³¹⁷ denial of entry to foreign journalists to Gaza and the forced closure of Al Jazeera’s offices in Israel³¹⁸ and the West Bank.³¹⁹ Meanwhile, Israeli regulatory agencies have neither exercised their authority to revoke broadcast licences nor issued financial sanctions against those using or amplifying genocidal statements.³²⁰

82. The State of Israel is predicated on the goal of Palestinian erasure; its entire political system is directed towards this goal. State structures have historically architected the oppression of Palestinians;³²¹ now its institutions, failing to function as a bulwark, are together advancing the course of the current catastrophe.

VII. Conclusions

83. The Gaza genocide is a tragedy foretold, and one that risks expanding to other Palestinians under Israeli rule. Since its establishment, Israel has treated

³⁰⁸ See www.btselem.org/sites/default/files/publications/202408_welcome_to_hell_eng.pdf, pp. 115–116; and <https://s3.eu-west-1.amazonaws.com/files.yesh-din.org/FFAmechanism/YeshDin+Mechanism.pdf>.

³⁰⁹ Israel, High Court of Justice, *Association of Civil Rights in Israel v. Minister of Defense and Others* Case No. HCJ 7753/23, Judgment, 23 November 2011; and www.btselem.org/sites/default/files/publications/202408_welcome_to_hell_eng.pdf, pp. 115–116.

³¹⁰ See www.ifj.org/media-centre/news/detail/article/israel-ifj-calls-on-the-israeli-government-to-lift-ban-on-foreign-media-to-enter-gaza.

³¹¹ See <https://gisha.org/en/aid-access-now/>.

³¹² See www.btselem.org/sites/default/files/publications/202408_welcome_to_hell_eng.pdf, pp. 115–116. E.g., see Israel, High Court of Justice, *Association of Civil Rights in Israel v. Minister of Defense and Others*, Case No. HCJ 4268/24; and Israel, High Court of Justice, *Association of Civil Rights in Israel v. The Government*, Case No. HCJ 1357/24. See https://www.acri.org.il/post/_992 (Hebrew).

³¹³ International Criminal Tribunal for Rwanda, *The Prosecutor v. Ferdinand Nahimana and Others*, Case No. ICTR-99-52-T, Judgement, 3 December 2003.

³¹⁴ Raz Segal and Luigi Daniele, “Gaza as twilight of Israel Exceptionalism: holocaust and genocide studies from unprecedented crisis to unprecedented change”, *Journal of Genocide Research* (March 2024), pp. 1–2.

³¹⁵ S/2024/419, enclosure I, paras. 18–26.

³¹⁶ See www.972mag.com/israeli-military-censor-media-2023/; and <https://theintercept.com/2023/12/23/israel-military-idf-media-censor/>.

³¹⁷ See <https://cpj.org/2024/09/journalist-casualties-in-the-israel-gaza-conflict/>.

³¹⁸ See <https://main.knesset.gov.il/EN/News/PressReleases/Pages/press1424t.aspx>.

³¹⁹ See <https://cpj.org/2024/09/israeli-forces-raid-al-jazeeras-west-bank-office-issue-45-day-ban-on-its-journalism/>.

³²⁰ See www.gov.il/en/departments/units/moatsa.

³²¹ See <https://s3.eu-west-1.amazonaws.com/files.yesh-din.org/FFAmechanism/YeshDin+Mechanism.pdf>.

the occupied people as a hated encumbrance and threat to be eradicated, subjecting millions of Palestinians, for generations, to everyday indignities, mass killing, mass incarceration, forced displacement, racial segregation and apartheid. Advancing its goal of “Greater Israel” threatens to erase the Indigenous Palestinian population.

84. Obscured by false Israeli narratives of a war waged in “self-defence”, the genocidal conduct of Israel must be viewed within a broader context, as numerous actions (totality of conduct) jointly targeting the Palestinians as such (totality of a people) across the entire territory where they reside (totality of the land), in furtherance of the political ambitions of Israel for sovereignty over the whole of former Mandatory Palestine. Today, the genocide of the Palestinians appears to be the means to an end: the complete removal or eradication of Palestinians from the land so integral to their identity, and which is illegally and openly coveted by Israel.

85. Statements and actions by Israeli leaders reflect a genocidal intent and conduct; they have often used the Biblical story of Amalek to justify the extermination of “the Gazans”, erasing Gaza and violently displacing Palestinians, thereby casting Palestinians as a whole as legitimate targets.

86. Individuals clearly identifiable as perpetrators should be prosecuted. However, it is the entire State apparatus that has engineered, articulated and executed genocidal violence, through acts which in their totality may lead to the destruction of the Palestinian people. This must stop; urgent action is required to ensure the full application of the Genocide Convention and full protection of the Palestinians.

87. This ongoing genocide is doubtlessly the consequence of the exceptional status and protracted impunity that has been afforded to Israel. Israel has systematically and flagrantly violated international law, including Security Council resolutions and ICJ orders. This has emboldened the hubris of Israel and its defiance of international law. As the ICC Prosecutor has warned, “if we do not demonstrate our willingness to apply the law equally, if it is seen as applied selectively, we will be creating the conditions of its complete collapse. This is the true risk we face at this perilous moment.”

88. As the world watches the first live-streamed settler-colonial genocide, only justice can heal the wounds that political expedience has allowed to fester. The devastation of so many lives is an outrage to humanity and all that international law stands for.

VIII. Recommendations

89. The current genocide is part of a century-long project of eliminatory settler-colonialism in Palestine, a stain on the international system and humanity, which must be ended, investigated and prosecuted.

90. The Special Rapporteur reminds all States of their legal obligation to act on their due diligence duties given the clearly serious risk of continuous breach of the Genocide Convention and Geneva Conventions, and urges States to consider and reach an urgent public determination as to what levers and tools each State has at its disposal to ameliorate that risk, whether acting alone or with other States, including at the United Nations; and to explain to the public and the international community the steps which it has taken and why.

91. **Whether in compliance with the above due diligence duties or otherwise, the Special Rapporteur urges Member States to:**

(a) **Use all their political leverage – commencing with a full arms embargo and sanctions – so that Israel stops the assault against the Palestinians, accepts a ceasefire and fully withdraws from the occupied Palestinian territory in line with the ICJ Advisory Opinion of 19 July 2024;**

(b) **Formally recognize Israel as an apartheid State and persistent violator of international law, reactivating the Special Committee Against Apartheid to comprehensively address the situation in Palestine, and warn Israel of possible suspension of its membership under Article 6 of the Charter of the United Nations;**

(c) **Support the deployment of an international protective presence throughout the occupied Palestinian territory;**

(d) **Develop a protective framework for Palestinians displaced outside Gaza, in line with international human rights and refugee law, while fully preserving their right to return;**

(e) **Support independent and thorough investigation(s) of criminal conduct, including genocide and apartheid, including through the application in national courts of universal jurisdiction over those suspected of such criminal conduct, including all relevant ancillary offences;**

(f) **Investigate and prosecute corporate entities and dual citizens involved in crimes in the occupied Palestinian territory, including soldiers, mercenaries and settlers;**

(g) **Ensure unhindered humanitarian assistance to Gaza and full financing and protection of UNRWA, including from attacks on its premises and personnel and from libellous smear campaigns, and ensure the continuity of its mandate in all fields.**

92. **The Special Rapporteur urges the ICC Prosecutor to investigate the commission of the crimes of genocide and apartheid by Israel, and investigate other prominent individuals mentioned in the present report.**

93. **The Special Rapporteur urges the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel to investigate the broader context of eliminatory intent and practices of Israel against all Palestinians (triple lens test), including those with Israeli citizenship and the refugees, and recent acts of genocide.**
