
THE HUMANITY CLAUSE: GAZA'S FALL AND HUMANITY FAILURE

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ABSTRACT

The events of October 7, 2023, marked a rupture in the global conscience. The act of incursion in Southern Israel turned into a prolonged conflict that exposed the fragility of justice, peace and humanitarian law. In the following month, Israeli military operations in Gaza drew a widespread scrutiny for their scale, intensity, and impact on civilians. These developments demand a careful analysis under international law, particularly on the Convention on the Prevention and Punishment of the Crime of Genocide (1948).

This article situates the Israel-Hamas conflict within the framework of international humanitarian law and Genocide jurisprudence. This article explores the definitional elements of the genocide, also assesses whether Israel conduct in Gaza meets the threshold under Articles II(a) and II(b) of the Genocide Convention, and considers the implications of such findings for state responsibility and accountability. Ultimately, it argues that the prohibition of genocide must be followed not just as a legal norm but also as a moral imperative, requiring urgent judicial inquiry and decisive international actions.

Hamas is a Military group started as an offshoot of the Muslim Brotherhood in 1987. The meaning of Hamas is Islamic Resistance Movement. The group is opposed to the existence of Israel on what it says is the land that belongs to Palestine. Its demands of wanting an Islamic-based rule over the region across the occupied West Bank, East Jerusalem and Gaza are considered radical by Israeli officials for obvious reasons.

The incursions that happened on October 7 resulted in more than 1200 human casualties and around 200–500 hostages. The event initiated a power struggle among the Hezbollah backed Hamas and US backed Israeli forces and the conflict embroiled into a full-fledged war among the interested parties by the end of 2023 till the very short lived ceasefire that was reached on January 15, 2024 until Israel decided to break it with its operation, “operation Might and Sword”.

THE GENOCIDE IN ACTION

Before we proceed, it is pertinent to define the meaning of the term “Genocide,” especially in light of the events leading up to the initial ceasefire declared on January 15th. This period witnessed extensive military escalations — mass bombings, tactical operations, and missile strikes — carried out by Israeli forces not only within Palestinian territories but also extending to neighbouring states, primarily Lebanon and Iran. These developments sparked global debate and demanded a closer examination under international humanitarian law.

The term “Genocide” was first coined in 1944 by Polish-Jewish lawyer Raphaël Lemkin in his seminal work *Axis Rule in Occupied Europe*.¹ It derives from two distinct roots: *genos*, meaning a race or tribe in Greek, and *-cide*, from Latin, meaning killing. The crime of genocide was initially acknowledged under international law by the United Nations General Assembly in 1946.² This recognition later culminated in the codification of genocide as a distinct and punishable offence under the 1948 *Convention on the Prevention and Punishment of the Crime of Genocide*, commonly referred to as the Genocide Convention.³

Article II of the Convention offers a formal definition of genocide as follows-

In the present Convention, genocide means any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

“*Killing members of the group.*

Causing serious bodily or mental harm to members of the group.

Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.

¹ United Nations, *Definitions of Genocide and Related Crimes*, <https://www.un.org/en/genocide-prevention/definition> (last visited July 13, 2025).

² G.A. Res. 96 (I), *Affirmation of the Principles of International Law Recognized by the Charter of the Nürnberg Tribunal* (Dec. 11, 1946), <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/033/47/img/NR003347.pdf?OpenElement> (last visited July 13, 2025).

³ Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948, 78 U.N.T.S. 277 (entered into force Jan. 12, 1951), https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20o%20Genocide.pdf (last visited July 13, 2025).

Imposing measures intended to prevent births within the group.

Forcibly transferring children of the group to another group.”

The Genocide Convention applies irrespective of conflict classification, covering both IAC and NIAC. Whether the Israel-Hamas conflict falls within IAC or NIAC is a debatable fact, but as far as the international opinion is concerned, it surely comes under the scope of International Law as per the ICJ judgment in *South Africa v. Israel*.⁴

ELEMENTS OF CRIME

When it comes to proving a crime, it becomes pertinent to define the elements involved in it. Say if one commits a murder, the *Mens Rea (Intention)* and *illegal conduct* provide context behind the crime. And when it comes to international crime of genocide, the definition includes two main elements, i.e. *firstly Mental Element (Specific intent to destroy in part or wholly a national, ethnic, racial or religious group) and secondly the Physical element (the actual conduct)*. In considering state responsibility for Genocide, the ICJ has held:

“It is not enough that the members of the group are targeted because they belong to that group... Something more is required. The acts... must be done with the intent to destroy the group as such in whole or in part.”

Genocide requires a special intent known as *dolus specialis* to destroy a protected group; this distinguishes it from other crimes under international law. Determining the special intent is essential for the purposes of establishing state as well as individual criminal responsibility for genocide. It does not mean that it is the *only* intent the state can have. The state may have other goals and purposes. To construe the law otherwise would make the law against genocide meaningless in cases of armed conflict, where there will always be additional military goals as well.

The jurisprudence outlined above suggests that, firstly, the evidence for a state's intent is to be approached and considered holistically; that is, it must be assessed based on contextual, direct and circumstantial evidence, alongside the existence of a pattern of conduct. Secondly, the

⁴ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (South Africa v. Israel)*, Provisional Measures, Order of Jan. 26, 2024, I.C.J., <https://www.icj-cij.org/case/192/orders> (last visited July 12, 2025).

military conduct of Israel must fall under the scope of this holistic examination, including its occupation of the Occupied Palestinian Territory (OPT), including Gaza. Thirdly, genocidal intent, as concluded above, can co-exist with military goals; otherwise, the prohibition of genocide in armed conflict will be meaningless. In other words, a finding of genocidal intent can be drawn when a state intends to pursue the destruction of a group to achieve a certain military result, i.e. in the present case eradication of Hamas. And finally, many reports published by various International Organisations, including that of Amnesty International, rightly acknowledges the war crimes committed by Israeli forces in Palestine including and not exclusively consisting of, acts of torture, destruction of agricultural land and civilian buildings across Gaza, deliberate denial of essential services and goods to Palestinian citizens.

Holistic analysis of the act of Israel uncovers a very disturbing picture. The destruction of cultural and religious sites, violation of repeated warnings by the United Nations and Israel's allies and legally binding orders by the ICJ hints at a deliberate intent of bypassing the principle of International Humanitarian Law to achieve its military objective of eliminating Hamas at the cost of the destruction of the civilian population.

DOCUMENTED EVIDENCE OF CIVILIAN TARGETING

To ascertain whether Israel's perpetrated acts of "Killing members of the group" and "causing serious bodily or mental harm to members of the group", prohibited under Article II of the Genocide Convention, I had reviewed various reports and articles readily available on the internet. Due credits, which are given along with citations marked.

Following the events of 7 October 2023, Israeli forces, in retaliation for Hamas incursions, conducted several systematic military operations on the soil of Gaza. Including the 15 air strikes that took place between 7th October 2023 and 20th April 2024, killing a massive number of more than 300 people, including 141 children, wounding hundreds of people⁵. The massive scale and magnitude of Israeli military actions point to the lawlessness that surrounds its operations in Gaza. These include air strikes on Rafah refugee camp sites, where Israeli military actions on 28th May 2024 took 37 innocent people's lives while they were asleep. More

⁵ Israeli Strikes in Rafah: At Least 37 Palestinians, Most in Tents, Killed, *The Hindu* (May 29, 2024), <https://www.thehindu.com/news/international/israeli-strikes-in-rafah-medics-say-several-dead-residents-report-heavy-fighting/article68224969.ece> (last visited July 13, 2025).

concerning is the report by Amnesty International, “You Feel Like You Are Subhuman”⁶, which found that out of 12 of the 15 strikes it investigated, they struck homes and other residential buildings. Most of which were struck by heavy load missiles during 11 PM to 4 AM, when their residents were mostly sleeping.

Targeting monuments of Historical Importance, Israeli military actions also targeted Saint Pophyrius Church, built in 1150 in Gaza, killing hundreds and thousands of civilians. Similar air strikes happened in the following places:

- Attack on the Al-Aydi family home, Nuseirat refugee camp, Deir al-Balah governorate on 20 October 2023. The strike killed 28 civilians, including 12 children.
- Attack on the Abu Mu'eileq family home, Deir al-Balah, on 22 October 2023. The strike, using a JDAM bomb, killed 19 civilians, including 11 children.
- Attack on the Abdelal family home, Al-Jneinah neighbourhood, Rafah, on 20 April 2024. The strike killed 20 civilians, including 16 children.

The list is not exhaustive; many such strikes took place in areas with large civilian populations and without any military objective in mind.

The illegal missile strikes carried out by Israeli forces, though emerging from a major escalation by Hamas, have evolved into a full-fledged unilateral war pursued systematically by the Israeli government in coordination with its military. Evidence of this is widely accessible across various digital platforms, including social media. Yet the continued inaction of the United Nations Security Council, alongside other multilateral organisations and the developed world, remains deeply concerning.

Human history bears witness to numerous genocides, including the Holocaust, where Jews were persecuted under Nazi Germany. It was in recognition of these atrocities that the term “antisemitism” was coined. Today, however, the impunity with which Israel’s political leadership and military apparatus target the civilian population in Gaza evokes a chilling

⁶ Amnesty Int’l, “You Feel Like You Are Subhuman”: Israel’s Genocide Against Palestinians in Gaza (Dec. 5, 2024), available at Amnesty International’s official report.

parallel. The siege of Gaza bares a grim truth about our world — where the worth of human lives is measured not by the pedestal of universal human rights, but by the political leverage they offer on the international stage.

CONCLUSION

Based on an extensive review of publicly available evidence and legal frameworks, it becomes reasonable to conclude that the acts committed by Israeli forces during the nine months under consideration acts that may constitute violations under Articles II(a) and II(b). These acts include the targeted killing of civilians, infliction of severe physical and psychological harm, and the deliberate imposition of living conditions designed to bring about the destruction of the Palestinian population in Gaza, either in whole or in part.

Further, the scale and pattern of these actions — consistent, coordinated, and directed overwhelmingly against Palestinian civilians — demonstrate intent to destroy a substantial segment of Gaza's Palestinian population. This points to genocidal intent within the meaning of international law and warrants urgent and independent judicial inquiry. In light of these findings, the continued silence and inaction from multilateral bodies and global powers is not only alarming — it risks setting a dangerous precedent for impunity in future conflicts.

Based on a comprehensive review of documented evidence and legal analysis, it becomes reasonable to also conclude that Israel has perpetrated and continues to commit acts amounting to genocide against Palestinians in Gaza. These acts — rooted in state policy, military conduct, and systemic inaction — have persisted since October 7, 2023, and show no meaningful deviation over the nine months under scrutiny.

The pattern of conduct includes targeted killings, the infliction of serious physical and psychological harm, and the deliberate imposition of life-threatening conditions. These actions fall squarely within the scope of Articles II (a), (b) of the Genocide Convention. The consistency and scale of these violations suggest not only knowledge of their consequences but intent to destroy, in whole or in part, Gaza's Palestinian population.

Given the documented evidence and legal framework, Israel's conduct warrants urgent judicial inquiry by the ICJ and UN investigative bodies. Failure to act risks undermining the prohibition of genocide and eroding the universality of human rights.