

Conceptualizing Human Rights Violations in Israel-Hamas War: Analyzing Gaza Conflict (October 2023-November 2024)

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Abstract

Egregious, unparalleled human rights breaches marked the Israeli assault on Gaza on 7 October 2023 and the subsequent ceasefire on 24 November 2024, stemming from a calculated political choice to disregard civilian casualties in favor of preserving the lives of Israeli troops. The breaches included assaults on medical workers and civilians, obstructing emergency medical evacuations, limiting healthcare access for the civilian populace, hindering referrals for treatment outside the Gaza Strip, and endangering the delivery of medical supplies and food. This paper will examine the transgressions of human rights and international humanitarian law by Israeli soldiers.

Keywords: Israel, Hamas, Gaza, Human Rights Violations, International Laws

As a result of Israel's brutal attack on Gaza, the Responsibility to Protect has not been consistently, firmly, and clearly applied. This highlights the inherent flaws of the doctrine and supports Hobson's (2022) claims that it is compartmentalised and disconnected from reality. More than three months into a military offensive that several experts have characterized as genocide (Government of South Africa, 2023), the Responsibility to Protect has not significantly influenced discussions over the response. Reports indicate that since Hamas' catastrophic assault on Israeli settlements adjacent to Gaza on October 7, over twenty thousand Palestinians, including over eight thousand children, have perished. The effort to eradicate Hamas has devastated a significant portion of Gaza City and other refugee camps converted into neighbourhoods around the Gaza Strip, and there are assurances that more destruction and even greater devastation are imminent. Many agree that Israel's campaign has resulted in civilian deaths faster than any other conflict in the twenty-first century (Leatherby, 2023; Moses, 2024).

Since 2007, Israeli authorities have restricted the majority of Gaza's inhabitants from using the Erez Crossing, the only passenger crossing from Gaza into Israel that permits Palestinians to access the West Bank and international destinations. Israeli officials often rationalize the blockade, which was instituted after Hamas assumed governmental control over Gaza from the Fatah-led Palestinian Authority (PA) in June 2007, citing security concerns. Israeli authorities enforce a blanket travel ban on all individuals, except those they identify as facing "exceptional humanitarian circumstances," primarily individuals requiring essential medical treatment and their companions, along with notable business figures. Individuals requiring urgent medical attention outside of Gaza can encounter refusals or delays in obtaining permissions. The WHO stated that 839 Palestinians in Gaza died between 2008 and 2021 while awaiting responses to their permission applications. In the first eight months of 2023, an average of 1,653 Palestinians

in Gaza departed via Erez Daily, as reported by the Israeli rights organization Gisha. While there was an increase compared to previous years, primarily due to work permits, it still fell short of the daily average of 24,000 before the Second Intifada began in September 2000 (World Report, 2024).

The assertion that “we really did not know,” often seen after prior genocidal atrocities (Woldt, 2021), seems untenable for any rational observer of this situation. Israeli Defence Minister Yoav Gallant vowed to cut off water, food, and electrical supplies to the 'human beasts' living in this limited territory, home to two million people, following the October 7 raid (Moses, 2024). Since that time, Israeli politicians and military officials have consistently advocated for the complete destruction of the Gaza Strip and its inhabitants (Narea & Samuel, 2023). Leaders from the United States, United Kingdom, and European Union, among others, persist in offering moral support and military aid to Israel, asserting that Israel has the right to defend itself against terrorism. The duplicity and inconsistency of Western powers over Israel's actions in Gaza have escalated, leading to pervasive doubt about the relevance of human rights and international law overall (Malik, 2023).

We can categorize the justifications for the conflict in Gaza into three distinct areas: self-defense against terrorists (violent non-state actors), genocide prevention (the de-Nazification of Gazans), and the pursuit of a battle against an enemy of humanity. The first two categories pertain to self-preservation (defensive punitive war), whereas the last pertains to offensive punitive war; nonetheless, these categories are often interchangeable. The "never-again promise" clearly articulates the self-defense reasons, which, at least conceptually, reference UNGC as substantiation for the subsequent assertion. Words and phrases like "promise," "obligation," and "genocide prevention" conceal a form of moralistic legal jargon. Self-defensive genocide prevention might be considered a precedent in the legal debate around humanitarian action. The discourse regarding whether the UNGC confers upon states the authority to employ armed force to avert and penalize genocide is a protracted discussion among international legal scholars and political theorists, typically framed within the context of unilateral third-party intervention or the Responsibility to Protect (R2P). This type of experiential legalism is reminiscent of India's use of the term "refugee aggression" to justify its involvement in East Pakistan on December 4, 1971, following criticism of its self-defense justification for violating the principle of proportionality (Wheeler, 2000).

References to Hamas as a murderous entity in official narratives escalated in response to South Africa's International Court of Justice lawsuit. An Israeli Foreign Ministry article on X echoed the statements of Rosalie Silberman Abella, the Samuel and Judith Pizar. Harvard Law School Visiting Professor of Law and former Justice of the Supreme Court of Canada: The conclusion of the Second World War thwarted Hitler's complete execution of his murderous agenda against the Jews. The world ratified the Genocide Convention 75 years ago to prevent such atrocities from occurring again. Currently, we are confronted with the paradoxical scenario in which a genocidal entity like Hamas evades legal examination or repercussions for its genocidal actions, while the nation that is the intended victim of these genocidal aims is summoned by the International Court of Justice to respond to accusations of genocide (Israel Foreign Ministry, January 9, 2024).

Eylon Levy, former Israeli government spokesman and international media advisor to the president of Israel, obliquely referenced the UNGC, asserting that "Israel takes its obligation to prevent genocide seriously." Consequently, we are combating the terrorist entities who incinerated entire families on October 7 and are threatening to repeat such atrocities if we do

not stop them. Israel's official X account cited human rights attorney Arsen Ostrovsky, CEO of the International Legal Forum, and lawyer Stanislav Pavlovchi, a former judge of the European Court of Human Rights, to assert that Hamas, an internationally recognised terrorist organisation, is guilty of genocide. Hamas explicitly declares the annihilation of Israel as its primary objective, as articulated in its charter, and manifested those objectives on October 7. Israel is not attempting to eradicate the Palestinian population. Israel is not attempting to eradicate Gaza. Israel is endeavoring to protect itself from a genocidal terrorist menace. Therefore, if we are going to use that term, it should be done correctly. Let us use it correctly. It is crucial to emphasize that the perpetration of genocide is not contingent upon the number of civilian victims; the essential factor of the crime is the requisite purpose (Levy, January 26, 2024).

Similarly, Israel's ambassador to the UK, Daniel Taub, tweeted that "Israel's legitimate defence in response to a genocidal assault by Hamas now exploits the term genocide, which originated from the Holocaust." In November 2023, the ICC received a legal complaint alleging that Hamas committed genocide against Israelis, along with an open letter from approximately 240 international law experts characterizing the Hamas assault on 7 October 2023 as a "crime of genocide." Several scholars in Holocaust Studies and Genocide Studies issued a report on 25 October 2023 asserting that "the atrocities committed by Hamas against Israeli civilians constitute genocide and crimes against humanity, while the actions against both Israeli civilians and combatants amount to war crimes," citing the Geneva Conventions, the Rome Statute, and UN Security Council Resolution 2474. This resolution condemns the deliberate targeting of civilians in armed conflicts and calls on the involved parties to "take all appropriate measures" to locate missing persons and facilitate the return of their remains (Boisen, 2024).

Ostrovsky and Pavlovchi's assertion that the number of civilian casualties does not define genocide differs from the actual circumstances of Israel's war. According to the perspectives of Gentili and Grotius, deterrence was not only an acceptable proactive strategy for state protection but also a moral justification for punitive warfare as a preventive measure against future transgressions, serving a reformatory purpose. Moses elucidates the operational dynamics of genocide within the framework of political gaslighting: Genocide, synonymous with the annihilation of populations, entails the slaughter and repression of cultural identity, regardless of whether the motivation is sheer destruction or deterrent. The experience remains consistent: a targeted assault on a community, rather than indiscriminate violence against civilians.

The Dahiya Doctrine encapsulates Israeli tactics aimed at the destruction of civilian infrastructure, originally articulated to justify prior actions against Hezbollah, and reflects Israel's explicit claim of both the intention and the right to employ force against non-state actors. This theory emphasizes counter-terrorist deterrence, seeking to neutralize Hamas or Palestinian resistance through the deployment of excessive force and the prevention of further provocations by Hamas (Moses, 2024).

It is quite bleak. The figures are astonishing. The Gaza Ministry of Health reports that approximately 44,000 people have died and over 102,000 have suffered injuries. Several thousand individuals remain trapped under the debris; hence, the numbers are expected to increase. There are 1.9 million displaced individuals out of a total population of 2.3 million. There exists no secure location in Gaza. The Israeli Defence Forces (IDF) are conducting persistent bombardments in the north and in Khan Younis in the south. There exists a significant shortage of food, water, medication, tents, and other essential supplies. Overcrowding and poor hygiene conditions plague the current shelters. Sewage is permeating every nook of Rafah and Khan Younis. This poses a latent threat to an impending pandemic. The conditions for residents in Gaza are dire. Numerous individuals are perpetually relocating from areas deemed secure, existing in a state of incessant apprehension. Individuals construct

tents from available plastic bags and wood. People are subsisting on a single meal a day, if they are fortunate. One scene remains vivid in my memory: I saw more than 100 children sprinting towards a cart delivering food. Children are ubiquitous, transporting water in jerrycans, sometimes as young as four, and gathering wood for fuel. Children have been absent from school for months; the destruction of their educational institutions has erased their future aspirations. Attacks on hospitals and clinics have left a limited number of operational facilities for trauma care or childbirth (United Nations, January 30, 2024).

The Israeli military's aerial bombardment and ground offensive resulted in the deaths of thousands of noncombatants, including women and children. The aerial bombardment and terrestrial incursion devastated several communities in Gaza. Critics assert that Israeli military operations contravened the concept of proportionality, since civilian losses exceeded the declared military advantages. The Israeli operations devastated essential civilian infrastructure, including hospitals, water facilities, and power installations. This action intensified the humanitarian crisis, denying millions of people access to basic necessities. The Fourth Geneva Convention forbids collective punishment. Israel intensified the embargo on Gaza and limited the distribution of humanitarian assistance throughout the fighting. The blockage significantly restricted access to food, water, and medical supplies, resulting in situations that constitute cruel, inhuman, or degrading treatment.

The UN Independent International Commission of Enquiry on the Occupied Palestinian Territory, including East Jerusalem, has reported that Israel has implemented a systematic strategy to dismantle Gaza's healthcare system, committing war crimes and the crime against humanity of extermination through persistent and intentional assaults on medical personnel and facilities. By attacking healthcare institutions, Israel is infringing on the right to health, resulting in substantial long-term adverse repercussions for the civilian population. Children, in particular, have disproportionately suffered from these assaults, experiencing both direct and indirect consequences due to the deterioration of the healthcare system. Israeli security forces have intentionally murdered, arrested, and tortured medical staff, as well as targeted medical trucks, while intensifying their embargo on Gaza and limiting permissions for medical care outside the region. These activities constitute war crimes, including intentional death and maltreatment, damage to protected civilian property, and the crime against humanity of extermination. The findings indicated that assaults on medical institutions in Gaza, especially those focused on pediatrics and neonatal care, had resulted in immeasurable suffering for child patients, including infants. By persisting in these assaults, Israel has infringed upon children's right to life, obstructed their access to essential healthcare, and intentionally imposed living conditions that threaten the survival of generations of Palestinian children and, potentially, the Palestinian populace as a whole (UN, October 10, 2024).

The fighting has devastated Gaza's fragile infrastructure, leaving its inhabitants without sufficient food, clean water, or access to quality healthcare. Assistance organisations reported an increasing prevalence of starvation, infections, and trauma among children. The attack has significantly affected the mental health of the residents, particularly the younger ones, who frequently display signs of anxiety and sadness. The embargo intensified the humanitarian crisis resulting from Israel's extensive 16-year-long restrictions on the passage of people and commodities into and out of Gaza. The extended closure and Egyptian border restrictions have deprived the 2.2 million Palestinians in Gaza, with few exceptions, of their freedom of movement and opportunities for improvement; significantly restricted their access to electricity, healthcare, and water; and ravaged the economy (World Report, 2024).

The Israeli authorities are accountable for war crimes, including starvation as a tactic of warfare, murder or intentional killing, deliberate assaults on civilians and civilian infrastructure, forced displacement, sexual violence, torture and inhumane treatment, arbitrary detention, and violations of personal dignity. Crimes against humanity, including

extermination, gender persecution directed at Palestinian men and boys, murder, forced transfer, torture, and inhumane treatment, were also perpetrated. The substantial civilian losses in Gaza and the extensive devastation of civilian property and infrastructure were the unavoidable consequences of a policy designed to inflict maximum harm, neglecting the principles of distinction, proportionality, and appropriate measures. The deliberate deployment of heavy weaponry with significant destructive potential in densely populated regions is a direct assault on the civilian population (UN, June 12, 2024).

The International Court of Justice in The Hague has issued three directives to Israel: to avert genocide against Palestinians and facilitate the entry of essential supplies into Gaza. Nevertheless, the Israeli military has maintained its illegal blockade and frequently assaulted hospitals and humanitarian personnel. The Gaza Ministry of Health reported the murder of around 42,000 Palestinians in Gaza as of September 2024, primarily women and children. The number of people trapped under the debris, as well as those who have succumbed to famine, sickness, infection, and disease, could potentially exceed 42,000. Nearly all inhabitants in Gaza are displaced, with the majority confined to an area comprising just 3 percent of Gaza's land. Almost everyone experiences hunger. Children lack access to educational institutions and endure trauma. Most structures either sustain damage or undergo destruction. They have demolished entire neighbourhoods (Esveld, 2024).

Conclusion

The 2023–2024 conflict between Israel and Hamas exemplifies the traits of contemporary asymmetrical warfare, marked by substantial human costs, particularly for civilians. Both sides have clearly violated international legal standards, albeit through differing methods. The assaults by Hamas on civilians contravened fundamental principles of international humanitarian law, while Israel's excessively severe reaction prompts valid apprehensions about proportionality and collective punishment. The ineffectiveness of international procedures to prevent or alleviate these abuses reveals the shortcomings of the current systems. Political factors often obstruct accountability, especially for state actors like Israel, who benefit from robust backing from allies like the United States. The international community must prioritize achieving a fair and lasting resolution to the Israel-Palestine issue by addressing the underlying factors that perpetuate cycles of bloodshed.

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