



## [War Crimes of the Israel-Hamas War](#)

By Brenna Haggerty

Members of the international community have called for a ceasefire as Israeli and Hamas forces continue to wage war. The United Nations General Assembly and UNICEF pressed the UN Security Council to seek a ceasefire after Israeli shelling was reported to have killed 3,600 Palestinian children in just under a month. Video footage shows entire neighborhoods destroyed while reports indicate entire families have been eliminated. The remaining hospitals report that they expect over 1,000 patients to die when generators run out of fuel; and over one million Palestinians have been forcibly displaced from their homes. Despite calls for an end to hostilities, no agreement has been reached with Israeli Foreign Minister Eli Cohen labeling the UN ceasefire resolution "despicable."

Claims of war crimes have increased as many international non-governmental organizations (NGOs) start to tally the atrocities being committed in Gaza. NGOs refer to International Humanitarian Law (IHL), sometimes also called the Law of Armed Conflict when classifying the facts they document. IHL origins stem from the 1949 Geneva Conventions which was ratified by all U.N. member states. This law is also supplemented by rulings at international war crimes tribunals. IHL binds states, like Israel, as well as non-state actors involved in conflict, like the Ezzeldin AlQassam Brigades, the military wing of Hamas, the Islamic Resistance Movement. The laws of war are non-reciprocal, meaning they exist independent of actions from the opposing party.

The basic tenet of International Humanitarian Law states that parties must distinguish between civilians and military objectives at all times. Direct attacks on civilians are considered war crimes. When an attack fails to differentiate between civilians and fighters it is an indiscriminate, and therefore illegal, attack; and if civilians are killed or injured in the process, it is a war crime. Disproportionate attacks are those where the expected harm to civilians and civilian objects is excessive and therefore a war crime. Attacks on military objectives must be proportionate; they cannot lead to excessive loss of civilian life or damage to civilian objects. The taking of hostages and using civilians as "human shields" is also prohibited; and all prisoners of war must be treated humanely as enshrined in Article 3 of the Geneva Convention.

In addition, the ratified rules dictate that it is not enough to simply claim civilians were not the target of an attack, as Israel has done when claiming they are targeting Hamas members. IHL dictates that parties must take all feasible precautions to minimize civilian harm; and if an attack might adversely affect civilians, the law requires parties to give "effective advance warning." If, however, noncombatants are unable to leave the area for a safer one, the warning is ineffective; and a warning does not therefore absolve parties of the responsibility to protect civilian lives. In addition, combatants are expected to take all feasible measures to protect civilians who do not evacuate after a warning. Statements that are clearly intended to spread fear and displace citizens rather than legitimate notices are not considered valid warnings.

Israeli families of victims of the October 7<sup>th</sup> militant attacks have appealed to the International Criminal Court (ICC) to order an investigation into the killings and abductions, despite Israel's opposition to the court, and classify them as war crimes. The Ezzeldin AlQassam Brigades also continues to indiscriminately fire rockets at Israeli targets that include civilian communities. 1,400 Israelis have been killed by these attacks; and over 200 hostages taken, another act International Humanitarian Law prohibits. Amnesty International has called on Hamas to release the hostages and immediately stop the indiscriminate rocket attacks on Israel.

International organizations and activists have also accused Israel of committing war crimes in Gaza, including claims of genocide. While experts are not in agreement on the accuracy of these assertions, a leaked document from the Israeli intelligence ministry has recommended the ethnic cleansing of Gaza. The Carnegie Endowment for Peace reports: "On October 17, the Misgav Institute for National Security and Zionist Strategy—an Israeli think tank founded and led by former defense and security officials—published a paper urging the Israeli government to take advantage of the 'unique and rare opportunity to evacuate the whole Gaza Strip,' and resettle Palestinians in Cairo with the assistance of the Egyptian government. Separately, a leaked document from the Israeli Intelligence Ministry recommended forcibly resettling 2.2 million Palestinians from Gaza in the Northern Sinai and constructing a buffer zone along the Israeli border to prevent their return."

Such actions constitute a premeditated war crime if successful. This is not the first time the Israelis have documented efforts to expel and expropriate. The 1948 Dalet Plan with and the 2011 Begin–Prawer Plan are two examples of expulsion tactics that would fall within the Geneva Conventions' classification of genocide as the "any of the following acts committed with 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; imposing measures intended to prevent births within the group; [and] forcibly transferring children of the group to another group."

The clear intent to relocate indigenous peoples coupled persistent, daily Israeli bombing has levelled entire Gaza neighborhoods; and the Palestinians have neither the equipment nor the resources to rescue survivors or dig many of the bodies from the ruins. AlJazeera reporter Indlieb Farazi Saber wrote that the humanitarian crisis in Gaza was already dire; and now "Israeli bombing [has] turned Gaza's desperate situation into a 'catastrophe.'" The United Nations reported that at least 8,796 Palestinians have been killed in Israeli attacks since October 7<sup>th</sup> with 66% of them being women and children.

Amnesty International released details from their investigation into five specific attacks, confirming that the Israelis perpetrated indiscriminate attacks on residential buildings, a refugee camp, family homes, and a public market. The Israeli Defense Forces bombed Jabalia, Gaza's largest refugee camp, for two consecutive days without warning or any precautions to protect civilians; and they also forced Palestinians living in the North to move South, sending threatening evacuation pamphlets and recordings. Inexplicably, they also bombed the south to where they had demanded the population move, denying a safe space for civilians to avoid the attacks. Their evacuation order has left more than one million civilians displaced.

The Israeli army claims to only fire at military targets, but in several cases Amnesty International found no evidence of the presence of fighters or other military objectives in the vicinity at the time of the attacks. Amnesty also found that the Israeli military failed to take all feasible precautions to maintain civilian safety. This included not giving Palestinian civilians effective prior warnings, and in some cases not warning civilians at all.

The Israeli military has also been using white phosphorus in their attacks on Gaza, specifically in densely populated neighborhoods. White phosphorus is a chemical that ignites when in contact with oxygen. It causes horrific and severe burns; and it can burn down to the bone. Burns to 10% or more of the human body are often fatal. Human Rights Watch reports: "white phosphorus in Gaza, one of the most densely populated areas in the world, magnifies

the risk to civilians and violates the international humanitarian law prohibition on putting civilians at unnecessary risk.”

Another key factor in the war has been the Israeli blockade of Gaza. The Israelis have controlled the Occupied Palestinian Territory (OPT) since 1967; and Israel’s withdrawal of ground forces from Gaza in 2005 did not end this occupation. They have maintained control over Gaza, monitoring its territorial waters, airspace, the movement of people and goods, and its infrastructure, making Gaza an open-air prison for the past sixteen years. Under International Humanitarian Law, the occupying power is required to satisfy the basic needs of Palestinians in Gaza. This includes access to food, water, and electricity. By completely blocking access to these basic needs, as well as bombing Gaza’s communications towers, they have failed to fulfill their legal responsibility. The blockade of Gaza and the blockade on humanitarian aid and basic necessities amounts to collective punishment, a war crime under International Humanitarian Law.

There is little doubt that war crimes have been perpetrated; and the issue now is one of determining scale and accountability. There must be a ceasefire to save lives and end the constant suffering caused by this war. Still, it is vital to remember that the citizens of Gaza were already suffering from a humanitarian crisis before the war began. Simply calling for a ceasefire will not remedy this issue. Gaza needs full access to humanitarian aid, food, clean water, and electricity. Israeli and Palestinian citizens will need time to grieve their losses and recover from this atrocity. To truly make change, there must be more than just a ceasefire in Gaza. The dramatic rise in both antisemitism and Islamophobia across the world will only lead to further negligence and violence. Both parties must be held accountable for the war crimes committed in this conflict; and the international community must be willing to uphold international law or face the consequences of a lawless future.