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Defence for Children International – Palestine  
The Palestinian Centre for Human Rights  
Muwatin Institute for Democracy and Human Rights (Observer)

## **Briefing Note**

### **PHROC Calls on the State of Palestine and Third States to Intervene Taking Concrete Measures and Legal Action to Prevent Genocide in Gaza**

**Date: 14 November 2023**

#### **Introduction**

This briefing note by the Palestinian Human Rights Organizations Council (PHROC) establishes that senior Israeli government and military leaders, amongst others, have incited genocide and may be carrying out genocidal acts against Palestinians in the Gaza Strip. It provides a background to the current aggression against Gaza and the relentless, indiscriminate attacks on the Palestinian civilian population therein. It further provides a non-exhaustive illustrative list of the inciting genocidal statements by Israeli officials. There have been significant warnings by United Nations (UN) independent human rights experts, as well as actions taken by Third States, including the removal of their diplomatic missions from Israel, some in response to the ongoing Israeli genocidal statements and acts. Together, these warnings and State actions put the international community of States on notice, that there is a very real risk that genocide is being, or may be committed against Palestinians in Gaza. Given the gravity of the crime of genocide, the most heinous crime in the international legal order, States are therefore under an international responsibility to ensure the “prevention of such crimes, including their incitement, through appropriate and necessary means”. Our organisations call on Third States and the international community to immediately engage its responsibility to protect the Palestinian people, including by taking concrete measures, legal actions and mechanisms under the Convention on the Prevention and Punishment of the Crime of Genocide (hereafter ‘Genocide Convention’) to hold Israel to account, to prevent genocide and put an immediate end to the ongoing atrocities.

#### **I. Background**

For the last month, since 7 October 2023, Israel has carried out an unrelenting military offensive on the Gaza Strip marked by sheer dehumanisation of Palestinians, indiscriminate and disproportionate aerial carpet bombing of a population trapped under full military siege, with no escape. Notably, since 2007, Israel has considered the Gaza Strip “enemy territory”, launching in this time, and to date, [seven](#) full military offensives on Gaza inflicting large-scale destruction and continued suffering for the population therein. Israel has continued its destructive military rampage across the Gaza Strip, ignoring a UN [General Assembly](#) resolution adopted on 26 October 2023 calling for an “immediate, durable and sustained humanitarian truce”. In five weeks, Israel has [killed](#) over 11,078 Palestinians, including 4,506 children, and injured 27,490. A further 3,500 Palestinians, including 1,740 children, are trapped beneath the rubble. The [World Health Organisation](#) reports that “[w]omen, children and

newborns in Gaza are disproportionately bearing the burden of the escalation of hostilities in the occupied Palestinian territory”.

While Israel conducts its ground invasion and widespread intense heavy bombardments across the Gaza Strip, with complete disregard for humanitarian relief, it has indiscriminately and [disproportionately](#) targeted entire neighbourhoods of residential buildings, refugee camps, commercial centres, mosques, churches, hospitals, schools and universities amongst others in its planned annihilation and reduction of the Gaza Strip “[to rubble](#)”. So far, an apocalyptic [260,000 housing units](#)—about 50 percent of Gaza’s total housing stock—have been either destroyed or damaged or rendered uninhabitable as a result of Israeli attacks. Meanwhile, fleeing internally displaced persons with nowhere to shelter have sought refuge in hospitals. Hospitals too have been [targeted](#) and bombed. There is no safe place in Gaza.

Since 11 November, for example, Al-Shifa Hospital, hosting 3,000 patients and staff as well as 15,000 internally displaced persons has been under attack. Israel has targeted, destroyed or damaged critical infrastructure, including the oxygen station, water tanks and well, the maternity ward and the cardiovascular facility. As a result of the deliberate power outage, targeting and damage caused, as of 14 November six [premature babies](#) and ICU patients have already died.

Israel’s evacuation order to 1.1 million Palestinians from the densely populated northern part of the Gaza Strip has been condemned by the [International Committee of the Red Cross](#) stating: “The instructions issued by the Israeli authorities for the population of Gaza City to immediately leave their homes, coupled with the complete siege explicitly denying them food, water, and electricity, are not compatible with international humanitarian law”. The World Health Organisation called on “Israel to immediately rescind orders for the evacuation of over 1 million people living north of Wadi Gaza”, calling the order a “[death sentence](#)”.

At the same time, Israel has attacked safe passage routes killing and maiming Palestinians seeking refuge, such as the 70 Palestinians killed on [Salah-al-Din](#) street on 14 October. Israel has bombed the [Rafah crossing](#), bombed [UNRWA shelters](#), and failed to establish humanitarian corridors and quarters for civilians. It has completely shut the northern Gaza strip off to humanitarian aid, while plunging Gaza into darkness in an electricity blackout, cut off all communications and banned the entry of fuel, thereby compromising the ability of essential services to function.

A [joint statement](#) from the Principals of the Inter-Agency Standing Committee, on the situation in Israel and the Occupied Palestinian Territory warn that “An entire population is besieged and under attack, denied access to the essentials for survival, bombed in their homes, shelters, hospitals and places of worship. This is unacceptable”. UN Secretary General [António Guterres](#) has decried that “Gaza is becoming a graveyard for children”.

## **II. Israeli Genocidal Intent and Acts**

Article II of the Genocide Convention provides that “genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;

- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group”.

*Intent to destroy in whole or in part*

In the case law on genocide, the International Court of Justice distinguishes between a genocide targeting the entirety of a people, ‘the whole of a group’ or a genocide targeting a part of a people.<sup>1</sup> The Court may look to see whether a part of a group, are numerous enough in proportion to the overall national group, and whether they are in a specific geographical area, isolated from the rest of the group. They may also look to see if the part are of some symbolic value, or ‘emblematic’ - which in essence means that a destruction of the part of the Palestinian group in Gaza would signify an effort to destroy the Palestinian group as a whole.<sup>2</sup>

As part of Israel’s overall fragmentation of the Palestinian people, the 2.3 million Palestinians in the Gaza Strip have been geographically and physically isolated from the rest of the Palestinian national group that resides on both sides of the ‘Green Line’ and across refugee camps in exile. Palestinians in the Gaza Strip constitute a substantial proportion of the Palestinian people, and are being targeted by Israel because of their national identity; i.e., for being Palestinian. Palestinians in Gaza are emblematic of the nation through their *sumoud* (‘steadfastness’) and refugee status (as around 70 percent of Palestinians in Gaza are refugees). As such they constitute a part of the national group in line with Article II of the Convention.

*Killing members of the group*

Israel has carried out acts and violations that may amount to the crime of genocide in the Gaza Strip. These include, among others, the large-scale, deliberate and indiscriminate killing of Palestinians, largely civilians, which may fall within the meaning of Article II (a) of the Genocide Convention. For example, in *Prosecutor v Bradanin*, the Trial Chamber of the International Criminal Tribunal for the Former Yugoslavia (ICTY) considered “killing” as [synonymous](#) with “wilful killing”. However, the Elements of Crimes of the Rome Statute suggests that the term “killed” is broader again and is used interchangeably with the term “caused death”. In *Prosecutor v Krstic*, the Trial Chamber of the ICTY treated the “killing of the men of military age as evidence from which to infer that Radislav Krstic and some members of the VRS Main Staff had the requisite intent to destroy all the Bosnian Muslims of Srebrenica”.<sup>3</sup>

In *Prosecutor v Jelusic*, the Trial Chamber considered the destruction of a group from killing specifying that: “[i]f essentially the total leadership of a group is targeted, it could also amount to genocide. Such leadership includes political and administrative leaders, religious leaders, academics and intellectuals, business leaders and others - the totality *per se* may be a strong indication of genocide regardless of the actual numbers killed”.<sup>4</sup> Further considering an attack on leadership, the Court suggested that: “If a group has its leadership exterminated, and at the

<sup>1</sup> Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Croatia v. Serbia*) Summary of the Judgment of 3 February 2015.

<sup>2</sup> *Ibid.*, para. 140-2.

<sup>3</sup> *Prosecutor v. Radislav Krstic (Trial Judgement)*, International Criminal Tribunal for the former Yugoslavia (ICTY), 2 August 2001, para. 19.

<sup>4</sup> *Prosecutor v. Goran Jelusic (Trial Judgement)*, IT-95-10-T, International Criminal Tribunal for the former Yugoslavia (ICTY), 14 December 1999, para. 82.

same time or in the wake of that, has a relatively large number of the members of the group killed or subjected to other heinous acts, for example deported on a large scale or forced to flee, the cluster of violations ought to be considered in its entirety in order to interpret the provisions of the Convention in a spirit consistent with its purpose”.<sup>5</sup>

A number of alarming statements have emanated from Israeli leaders, indicating intent to target and eliminate the civilian population. Israeli Defence Minister, [Yoav Gallant](#), rallying the troops promised, “Gaza won’t return to what it was before. We will eliminate everything.” Meanwhile, the Israeli President, [Isaac Herzog](#), observed, “It’s an entire nation out there that is responsible. It’s not true, this rhetoric about civilians not aware, not involved. It’s absolutely not true. They could have risen up against that evil regime, which took over Gaza in a *coup d’etat*. But we are at war. We are at war. We are defending our homes. We are protecting our home. That’s the truth. And when a nation protects its homes, it fights. And we will fight until we break their backbone”.

Israel’s Minister of National Security, [Itamar Ben Gvir](#) urged, “To be clear, when we say that Hamas should be destroyed, it also means those who celebrate, those who support, and those who hand out candy– they’re all terrorists, and they should also be destroyed!”. [Ezra Yachin](#), an Israeli army reservist (sent to talk to troops as motivational speaker), stated: “Be triumphant and finish them off and don’t leave anyone behind. Erase the memory of them. Erase them, their families, mothers and children. These animals can no longer live.... Every Jew with a weapon should go out and kill them. If you have an Arab neighbour, don’t wait, go to his home and shoot him. Attack them, and don’t wait for them to fire air strikes at us and for the Iron Dome to activate. Attack them before that. We want to invade, not like before, we want to enter and destroy what’s in front of us, and destroy houses, then destroy the one after it. With all of our forces, complete destruction, enter and destroy.... Let them drop bombs on them and erase them”. Rear Adm. [Daniel Hagari](#), the chief spokesman for the Israel Defense Forces, stated that the goal was to get to “the rout of Hamas and the elimination of its leaders....This organization will not rule Gaza militarily and politically”.

In this vein, the large-scale killing of Palestinians in Gaza, may also be indicative of an intent to destroy. Similarly, Israel’s planned and anticipated total elimination and killing of Palestinian political parties and armed resistance, namely Hamas and its political leadership, may amount to acts of genocide. To date, Israel has killed more than 11,078 Palestinians and injured 27,490, of whom 70 percent are civilians. More than 3,500 remain under the rubble, likely dead. According to the Palestinian Ministry of Health, as of 8 November 2023, the Israeli occupying forces have committed 1,098 “massacres” against Palestinians in Gaza - the last being the killing of 100 members of Al-Astal family. Since the beginning of the aggression, more than 900 Palestinian families have been killed and entirely removed from the civil registry. Such killings, with the requisite intent for genocide, may amount to genocidal acts.

### *Bodily and Mental Harm*

The Genocide Convention includes “causing serious bodily or mental harm to members of the group” as acts of genocide. The harm must go “beyond temporary unhappiness, embarrassment or humiliation” and inflict “grave and long-term disadvantage to a person’s ability to lead a normal and constructive life.”<sup>6</sup> However to “support a conviction for genocide, the bodily harm or the mental harm inflicted on members of a group must be of such a serious nature as to

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<sup>5</sup> *Prosecutor v. Goran Jelusic (Trial Judgement)*, IT-95-10-T, International Criminal Tribunal for the former Yugoslavia (ICTY), 14 December 1999, para. 82.

<sup>6</sup> *Krstić Trial Judgement*, para. 513; see also *Blagojević and Jokić Trial Judgement*, para. 645

threaten its destruction in whole or in part”.<sup>7</sup> Examples of acts causing serious bodily or mental harm include “torture, inhumane or degrading treatment, sexual violence including rape, interrogations combined with beatings, threats of death, and harm that damages health or causes disfigurement or serious injury to members of the targeted national, ethnical, racial or religious group”.<sup>8</sup> In *Prosecutor v Popovic*, the Trial Chamber also considered that, “in some circumstances forcible transfer can be an underlying act that causes serious bodily or mental harm, in particular if the forcible transfer operation was attended by such circumstances as to lead to the death of the whole or part of the displaced population”.<sup>9</sup>

In Gaza, we are witnessing in real time, the execution of plans to force the transfer of Palestinians from the northern to the southern parts of Gaza. This is likely to eventually progress to a permanent transfer of Palestinians from Gaza into Egypt, whereupon Gaza is colonised with Israeli settlers and [economic mega projects](#) established, in a full on annexation. A leaked document from Israel’s Intelligence Ministry titled “Options for a policy regarding Gaza’s civilian population” outlined three possible scenarios for Gaza; the “most executable” being “[Option C](#)” whereby civilians would “temporarily be herded into ‘tent cities’ in Sinai, before cities are constructed in a ‘resettled area’ in the north of the peninsula to house them” in Egypt. The plan also indicates that Palestinians could be transferred to Gulf States, as well as Egypt. In addition, a “sterile zone” would be established in Egypt, and Israel suggested “a security perimeter should be established in our territory near the border with Egypt”. A second option, “Option B” proposes the removal of Hamas from the Gaza Strip and their replacement with a local authority, whereas “Option A” suggests that Hamas be replaced by the Palestinian Authority.

The plans to force the transfer of Palestinians and annex and settle the territory, are mirrored in the statements of Israeli government and military leaders. Israel’s Deputy Prime Minister and Minister of Justice, [Gideon Sa’ar](#), has threatened that “[w]hoever starts a war against Israel must lose territory”. Israeli Minister of Foreign Affairs, [Eli Cohen](#), announced on Israeli Army Radio, “At the end of this war, not only will Hamas no longer be in Gaza, the territory of Gaza will also decrease”. Prime Minister Netanyahu [promised](#): “We will find these accursed murders, these human beasts, with full force and we will defeat them. We will wipe them off the face of the earth. The time will come when we will rebuild the destroyed communities. We will rebuild the area around the Gaza Strip and we will restore it as a flourishing and prosperous area”. Military rabbi, [Amihai Friedman](#), applauded Israeli troops stating, “Aside from the dead and the hostages, this is the happiest month of my life, because the people have woken up and now we’ll establish massive settlements in Gaza.”

While forcible transfer in itself does not constitute a genocidal act, the forcible displacement and transfer of a population, or part of it, could constitute an additional means towards its physical destruction, in whole or in part, thereby evidencing the genocidal intent. For example, in *Prosecutor v Popovic*, the Trial Chamber at the International Criminal Tribunal of the Former Yugoslavia (ICTY) considered that “forcible transfer is nonetheless a relevant consideration when assessing genocidal intent”.<sup>10</sup> Expanding on this, in *Prosecutor v Krstic*, the Trial Chamber at the ICTY considered that, “forcible transfer could be an additional means by which to ensure the physical destruction of the Bosnian Muslim community in Srebrenica. The transfer completed the removal of all Bosnian Muslims from Srebrenica, thereby

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<sup>7</sup> *Seromba* Appeal Judgement, para. 46. See also *Krajišnik* Trial Judgement, para. 862.

<sup>8</sup> *Brđanin* Trial Judgement, para 690. See also ICJ *Bosnia* Judgment, para. 319

<sup>9</sup> *Prosecutor v. Vujadin Popovic (Judgment)*, IT-05-88-T, International Criminal Tribunal for the former Yugoslavia (ICTY), 10 June 2010, para. 813.

<sup>10</sup> *Ibid*, para. 824.

eliminating even the residual possibility that the Muslim community in the area could reconstitute itself”.<sup>11</sup>

Israel’s repeated [evacuation](#) orders for more than one million Palestinians to leave the northern Gaza Strip have resulted in the forcible displacement of hundreds of thousands of Palestinians across the Strip. As of 11 November, there were about 1.5 million people in Gaza internally displaced sheltering in UNRWA facilities, hospitals, churches, schools, public buildings or with families. Of the 1.5 million, more than 550,000 people are sheltering in the south of Gaza. Under the guise of ensuring the “safety and protection”, Israel’s plan has been to drive Palestinians from the northern Gaza Strip, force their displacement and transfer, to “[wipe](#) them off the face of the earth”. In doing so, the consequent acts of displacement without basic facilities to survive, and targeted by bombardments, may be considered to satisfy Article II(b) as acts “Causing serious bodily or mental harm to members of the group” and Article II(c) as acts “Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part”.

In addition, other acts causing serious bodily or mental harm to members of the group, may include the disruption of maternal, new-born and child services. To date, Israel’s premeditated attacks against hospitals across Gaza have resulted in the killing of six premature babies among other patients, while many patients, including premature babies, remain at heightened risk of death. [WHO](#) warns that “[t]he psychological toll of the hostilities also has direct – and sometimes deadly – consequences on reproductive health, including a rise in stress-induced miscarriages, stillbirths and premature births”. These may further be considered as acts of genocide under Article II(c) and should be investigated against Israel’s openly declared genocidal intent against Palestinians in Gaza.

Other acts of bodily or mental harm include injuries from the non-stop large-scale bombardment of Gaza, mental harm from the constant fear of being targeted and killed, and other harms brought resulting from the denial of medical supplies and access to services in the Gaza Strip.

### *Conditions of Life*

Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part, comprises acts of genocide under the Genocide Convention. In *Prosecutor v Popovic*, the Trial Chamber of the ICTY, considered that: “methods of destruction frequently mentioned in Trial Judgements include denying medical services and ‘the creation of circumstances that would lead to a slow death, such as lack of proper housing, clothing and hygiene or excessive work or physical exertion’, ‘systematic expulsion from homes’ has also been cited as a potential means of inflicting conditions of life calculated to bring about destruction”.<sup>12</sup>

Israeli officials have made further statements inciting for conditions of life calculated to bring about the physical destruction of the Palestinian people in Gaza. Israeli Defense Minister, [Yoav Gallant](#), announced that “We are imposing a complete siege on Gaza. There will be no electricity, no food, no water, no fuel. Everything is closed. We are fighting human animals and we act accordingly”. A few days later, he [reiterated](#) these calls, saying, “We are fighting

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<sup>11</sup> *Prosecutor v. Radislav Krstic (Trial Judgement)*, International Criminal Tribunal for the former Yugoslavia (ICTY), 2 August 2001, para. 31-33.

<sup>12</sup> *Prosecutor v. Vujadin Popovic (Judgment)*, IT-05-88-T, International Criminal Tribunal for the former Yugoslavia (ICTY), 10 June 2010, para. 815.

against human animals... Gaza won't return to what it was before. We will eliminate everything". This was echoed by Israeli Major General and COGAT chief, [Ghassan Alian](#), stating, "Human animals must be treated as such. There will be no electricity and no water [in Gaza], there will only be destruction. You wanted hell, you will get hell".

Israeli Minister of Energy, [Israel Katz](#), stated "[a]ll the civilian population in Gaza is ordered to leave immediately. We will win. They will not receive a drop of water or a single battery until they leave the world". Similarly, Israel's Minister of National Security and Chairman of [Otzma Yehudit](#), [Itamar Ben-Gvir](#), stated, "As long as Hamas does not release the hostages in its hands - the only thing that needs to enter Gaza are hundreds of tons of explosives from the Air Force, not an ounce of humanitarian aid".

The imposition of a 16-year-long illegal blockade and total siege on Palestinians in Gaza since 7 October thereby denying the provision of water, food, fuel and medical supplies and services - as openly stated in numerous Israeli officials' public statements - together with the serious consequences of unprecedentedly worsening sanitary conditions, including the spread of infections and diseases among hundreds of thousands of displaced persons in overcrowded shelters across Gaza, could result in the "creation of circumstances that would lead to a slow death" and as a means to inflict conditions of life calculated to bring about the destruction of the group and as acts causing serious bodily or mental harm within the meaning of Article II (b) and (c) of the Genocide Convention. The [impact](#) of these imposed conditions will be felt for "generations to come" and are beyond "temporary", Israel is causing "grave and long-term disadvantage" to the population's well-being and ability to lead a constructive life.

Furthermore, considering the conditions in which Palestinians have been instructed to evacuate; i.e., continuous bombardment, restrictions on movement resulting from the targeting of vital infrastructure including roads, as well as the deliberate deprivation of essential supplies due to the full siege imposed rendering shelters in the south unable to accommodate the basic needs of most of the displaced population, have put the lives of hundreds of thousands of displaced Palestinians at serious risk that may lead to their death and/or cause serious bodily or mental harm.

Israeli official statements, coupled with the military's unlawful acts and exacerbation of an already unlawful siege depriving 2.2 million people of water and electricity, as well as keeping border crossings largely closed to the delivery of fuel, medicine, water and food, require that Third States trigger their obligations to act to prevent genocide against the Palestinian people, particularly in the Gaza Strip, in line with their obligations under the Genocide Convention and customary international law.

#### **IV. International Warnings of Genocide**

Since 7 October 2023, there have been a number of alarms raised about the pattern of statements inciting genocide emanating from Israeli government, political and military officials. On 13 October, [Palestinian human rights organisations](#) called on "Third States to urgently intervene to protect the Palestinian people against genocide", whereas the [International Federation for Human Rights \(FIDH\)](#) issued a statement opposing Israel's evacuation orders denouncing them as "forcible and unlawful transfer of civilians that may reflect genocidal intent". On 14 October, UN Special Rapporteur on the situation of human rights in the Occupied Palestinian Territory, [Francesca Albanese](#) warned that "Palestinians are in grave danger of mass ethnic cleansing". On 15 October, a statement signed by over [800 academics](#), including prominent Holocaust and genocide studies scholars, warned of "the

possibility of the crime of genocide being perpetrated by Israeli forces against Palestinians in the Gaza Strip.”

On 18 October, the [Center for Constitutional Rights](#) (CCR) released an emergency legal briefing paper, finding that “there is clear evidence that Israel is attempting to commit, if not actively committing, genocide in the occupied Palestinian territory, and specifically against the Palestinian people in the Gaza Strip”. It further alerted the United States to its Third State responsibility under the Genocide Convention: “The United States has been obligated, from the instant of learning of the serious risk of genocide of the Palestinian people, to exercise its influence on Israel to prevent the crime. The United States is not only failing to uphold its obligation to prevent the commission of genocide, but there is a plausible and credible case to be made that the United States’ actions to further the Israeli military operation, closure, and campaign against the Palestinian population in Gaza rise to the level of complicity”.

A joint statement by seven [UN Experts](#) released on 19 October warned against the risk of genocide, stating: “We are sounding the alarm: There is an ongoing campaign by Israel resulting in crimes against humanity in Gaza. Considering statements made by Israeli political leaders and their allies, accompanied by military action in Gaza and escalation of arrests and killing in the West Bank, there is also a risk of genocide against the Palestine people”. On 2 November, the [UN Experts](#) restated the risk of genocide against the Palestinian people and urged for immediate action by the international community.

On 20 October, [100 organisations](#) and a group of leading genocide scholars, submitted a statement to the Prosecutor of the International Criminal Court “to issue arrest warrants, investigate Israeli crimes and intervene to deter incitement to commit genocide in Gaza”. On 9 November, [Al-Haq, Al Mezan and PCHR](#), represented by Attorney Emmanuel Daoud, filed a lawsuit with the International Criminal Court under Article 15 of the Rome Statute calling for the urgent attention of the Court to Israel’s aggression on the Gaza Strip amounting to war crimes, crimes against humanity, incitement to genocide and genocide. The organisations further urged the Office of the Prosecutor to issue arrest warrants expeditiously for those suspected of these crimes.

In an interview to the BCC, former International Criminal Court Prosecutor, [Moreno Ocampo](#) opined that: “[T]he blockade, food and gasoline, could be a war crime, could be a crime against humanity and even a genocide, if its intention was to destroy the people in Gaza... The blockade itself is a big crime, and that is what you must understand, the Ministers in Israel could be investigated.... The blockade denying the elements to survive to Gaza people, is a crime itself. It is a crime against humanity and could be a genocide.... These people are under blockade, with no food, no water, no hospitals now. They are asking them to move. There is no gasoline, how they can move? In addition to each individual examination, there is a situation where these people are exterminated that could be a crime against humanity or a genocide”.

Outgoing senior UN Human Rights official, [Craig Mokhiber](#), wrote to the UN High Commissioner for Human Rights, Volker Turk: “This is a textbook case of genocide. The European, ethno-nationalist, settler colonial project in Palestine has entered its final phase, towards the expedited destruction of the last remnants of indigenous Palestinian life in Palestine. What’s more the governments of the United States, the United Kingdom, and much more of Europe, are wholly complicit in the horrific assault. Not only are these governments refusing to meet their treaty obligations ‘to ensure respect’ for the Geneva Conventions, but they are in fact actively arming the assault, providing economic and intelligence support, and giving political and diplomatic cover for Israel’s atrocities”.



The [UN Commission of Inquiry](#) called on all parties to the conflict to comply fully with international humanitarian law and international human rights law, and to act to prevent the commission of and incitement to any crimes under international law, including war crimes, crimes against humanity and genocide.

## V. Third State Warnings on Genocide

In light of this chorus of international warnings, some Third States have started to warn against genocide and, accordingly, take action. On 10 October, Venezuelan President, [Nicolas Maduro](#), in a televised statement, accused Israel of committing genocide against Palestinians in Gaza. Likewise, Columbian President, [Gustavo Petro](#), publicly warned, “It’s called Genocide, they do it to remove the Palestinian people from Gaza and take it over”, and that “[i]f we have to suspend [foreign relations](#) with Israel, we will suspend them. We do not support genocides”. At the Third Committee Meeting on the Question of Palestine, [Bolivia’s delegate](#) condemned “the atrocious genocide being conducted against Palestinians in Gaza at this very moment”, with children, women and older persons suffering injustice and human rights violations.

At the UN General Assembly, Egypt’s ambassador, [Osama Mahmoud Abdelkhalek](#), opposed the violations against the Palestinian people, saying “no to forcible displacement and liquidating human rights: No to genocide – all people are equal”. Likewise, Iranian Minister of Foreign Affairs, [Hossein Amir-Abdollahian](#), said that the world was bearing witness to the “war crime and genocide of the occupying Israeli regime in Gaza and the West Bank of Palestine”. Namibia’s ambassador to the UN, [Neville Gertze](#), has condemned “the abhorrent attacks on innocent civilians [in Gaza] and the military onslaught with the objective of obliterating innocent civilians amounting to a genocide”. [Pakistan’s](#) Ministry of Foreign Affairs, stated that “With 10,000 Palestinian dead and counting, we underline the urgency of bringing an end to the carnage in #Gaza and call for [a] ceasefire. Genocide is unacceptable in any day and age”.

A joint statement by two former Prime Ministers of [Belize](#) highlighted that the “ongoing genocide, played out on the world’s media screens as some macabre horror serial show, is profoundly disturbing and could seriously affect its relevance to achieving world peace”. In Spain, Minister for Social Rights, [Ione Belarra](#), warned that, “Given the attempted genocide being carried out by the State of Israel in Gaza, we propose that the Government of Spain take Netanyahu before the International Criminal Court for war crimes”. Meanwhile, on 6 November, the government of [South Africa](#) recalled its ambassador and diplomatic mission to Israel, citing genocide. Similarly, [Bahrain](#), [Bolivia](#), [Chile](#), [Columbia](#), [Honduras](#), [Jordan](#) and [Turkey](#) have also recalled their diplomatic missions from Israel.

## VI. States Obligations to Prevent Genocide

In its 2020 Resolution on the Prevention of Genocide, the UN Human Rights Council reiterated:

The importance, when addressing complex situations that might lead to genocide as defined in the Convention, of a prompt and comprehensive examination of a set of multiple factors, including legal factors and possible warning signs as identified in, *inter alia*, the report of the Secretary-General on the implementation of the Five-Point Action Plan and the framework of analysis for atrocity crimes developed by the Office of the Special Advisers on the Prevention of Genocide and on the Responsibility to Protect, such as the existence of groups at risk, the massive, serious and systematic violation of human rights, the resurgence of systematic discrimination and the prevalence of expressions of hate speech targeting persons belonging to national, ethnic, racial or

religious groups, especially if they are uttered in the context of an actual or potential outbreak of violence.<sup>13</sup>

The 2014 [framework of analysis](#) for atrocity crimes developed by the Office of the Special Advisers on the Prevention of Genocide and on the Responsibility to Protect notes that war crimes, crimes against humanity, and the crime of genocide “are rarely committed in the absence of all or most of the risk factors that the Framework identifies”. All of the framework’s risk factors are now triggered and applicable to the situation in Gaza and towards the Palestinian people. The Palestinian population of Gaza in particular is presently subject to the violent and indiscriminate perpetration by Israeli occupying forces of war crimes and crimes against humanity, against a backdrop of official Israeli utterances and declarations which evidence signs of the intent to physically destroy the Palestinian population of Gaza who has been under land, air and sea blockade and closure for 16 years already, endured a 56-year-long illegal military occupation and an apartheid regime as part of Israel’s settler colonial enterprise since 1948.

The International Court of Justice has affirmed that the Genocide Convention embodies principles that are part of general customary international law. Accordingly, all States are bound as a matter of law by the principle that genocide is a crime prohibited under international law. The Court has affirmed that the prohibition of genocide is a peremptory norm of international law from which no derogation is allowed. The Convention provides that individuals who attempt genocide or who incite to genocide “shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals”.

Considering the aforementioned and the clear indicators warning of ongoing and imminent Israeli assaults against Palestinians in Gaza are being conducted with a genocidal intent, states must immediately trigger effective action and countermeasures against any potential or actual breaches of the Genocide Convention in line with their obligation to prevent genocide.

Article I of the Genocide Convention affirms that genocide is a crime under international law that can be committed in peace or war time and for which States Party have a duty to prevent and to punish. The International Court of Justice has clarified that “a State’s obligation to prevent, and the corresponding duty to act, arise at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed. From that moment onwards, if the State has available to it means likely to have a deterrent effect on those suspected of preparing genocide, or reasonably suspected of harbouring specific intent (*dolus specialis*), it is under a duty to make such use of these means as the circumstances permit”.<sup>14</sup>

The Court recognised that different States, depending on their circumstances, will have different roles to play in preventing genocide in any given situation, but clarifies that responsibility is “incurred if the State manifestly failed to take all measures to prevent genocide which were within its power, and which might have contributed to preventing the genocide”. Certainty that genocide was about to be perpetrated is not required for a State to incur responsibility for failing in its duty to prevent genocide. The Court confirms that it is irrelevant whether Third States claim, or even prove:

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<sup>13</sup> UN Human Rights Council, Resolution 43/29: Prevention of Genocide (29 June 2020), UN Doc A/HRC/RES/43/29, para 19.

<sup>14</sup> Case Concerning 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 431.

that even if it had employed all means reasonably at its disposal, they would not have sufficed to prevent the commission of genocide. As well as being generally difficult to prove, this is irrelevant to the breach of the obligation of conduct in question, the more so since the possibility remains that the combined efforts of several States, each complying with its obligation to prevent, might have achieved the result — averting the commission of genocide — which the efforts of only one State were insufficient to produce.<sup>15</sup>

The dehumanising, racist and violent utterances of Israeli government and military officials with regards to the Palestinian population, particularly in the Gaza Strip since 7 October, both evidence genocidal intent and constitute the crime of direct and public incitement to genocide, punishable under Article III of the Convention. Such dehumanising and vilifying language, typical of genocidal atrocity, were noted in a [warning](#) issued by the Special Advisers of the UN Secretary-General on the Prevention of Genocide, and on the Responsibility to Protect, in July 2014, in response to Israel’s conduct against the protected Palestinian population: “We are equally disturbed by the flagrant use of hate speech in the social media, particularly against the Palestinian population”. The Special Advisers noted that individual Israelis had disseminated messages that could be dehumanising to the Palestinians and that had called for the killing of members of this group. The Advisers reasserted that incitement to commit atrocity crimes is prohibited under international law. It is worth noting that in mid-October 2023, [banners](#) were hung on Israeli roads echoing official genocidal statements and calling for the mass destruction and elimination of Palestinians in Gaza.

Further prohibited and punishable as a discrete crime under Article III of the Convention is complicity in genocide. States that have declared diplomatic, military, and political support for Israel’s ongoing assault on Palestinians in Gaza, such as the United States, the Netherlands, the United Kingdom and Germany, may be held liable for their involvement in and enabling of genocidal acts, including through the provision of arms, military equipment and material assistance, providing political and diplomatic support, and by endorsing - and at times adopting - dehumanising rhetoric against Palestinians. As noted by the International Court of Justice, a State may be held responsible for complicity in genocide where:

at the least its organs were aware that genocide was about to be committed or was under way, and if the aid and assistance supplied, from the moment they became so aware onwards, to the perpetrators of the criminal acts or to those who were on the point of committing them, enabled or facilitated the commission of the acts. In other words, an accomplice must have given support in perpetrating the genocide with full knowledge of the facts.<sup>16</sup>

## Conclusion

In light of Israel’s of genocidal statements and acts against Palestinians in Gaza, our organisations call on:

- States to act in line with their obligations under the Genocide Convention, in the face of a serious risk that Israeli occupying forces are perpetrating genocidal conduct against Palestinians in Gaza, by unilaterally and collectively taking all feasible action to urgently and definitively ensure that Israel refrains from further

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<sup>15</sup> (para 430)

<sup>16</sup> (para 432)

incitement to genocide and from the perpetration of conduct prohibited under Article II of the Convention;

- The State of Palestine and Third States to issue proceedings before the International Court of Justice on the responsibility of Israel for genocide in Gaza under Article IX of the Genocide Convention;
- State Parties to the Genocide Convention to call upon the competent organs of the UN (including the General Assembly, the Security Council, the Economic and Social Council, and the International Court of Justice) to take the necessary action under the UN Charter to prevent and suppress acts of genocide or any of the other acts enumerated in Article III of the Convention;
- States should take all available measures to avoid complicity in Israeli conduct through the provision of materials, arms, economic and diplomatic support to a regime responsible for ongoing and persistent widespread and systematic violence and abuse of the Palestinian population amounting to genocide;
- States to apply and impose economic sanctions, arms embargo, and other countermeasures until Israel adheres to its obligations under international law; and
- States to arrest and prosecute nationals or persons present on their territory or within their jurisdiction who have incited genocide or carried out genocidal acts against the Palestinian people.

<sup>[2]</sup> Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia) Summary of the Judgment of 3 February 2015.

### Palestinian Human Rights Organizations Council comprising:



**Addameer Prisoners' Support and Human Rights Association**  
Sahar Francis  
General Director



**Aldameer Association for Human Rights**  
Alaa Skafi  
Acting General Director



**Al-Haq**  
Shawan Jabarin  
General Director



**Al Mezan Center for Human Rights**  
Issam Younis  
General Director



**The Palestinian Centre for Human Rights**  
Raji Sourani  
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**Defence for Children International Palestine Section**  
Khaled Quzmar  
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**Ramallah Center for  
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Khalid Nassif  
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**Hurryyat - Centre for  
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Helmi Al-Araj  
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**Jerusalem Center for  
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Issam Aruri  
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**Independent  
Commission for  
Human Rights  
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Ammar Dwaik  
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**Muatin Institute for  
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Mudar Qasis  
General Director