

A note on genocideⁱ

Article II of the Convention on the Prevention and Punishment of the Crime of Genocide (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.'

All states are bound as a matter of law by the principle that genocide is a crime prohibited under international law. The International Court of Justice 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'.

Article I of the Convention provides that: 'The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake 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'.

Raphael Lemkin, who coined the term 'genocide' in 1944, said: 'the term does not necessarily signify mass killing', 'More often it refers to 'a coordinated plan aimed at destruction of the essential foundations of the life of national groups so that these groups wither and die like plants that have suffered a blight', which 'may be accomplished by the forced disintegration of political and social institutions, of the culture of the people, of their language, their national feelings and their religion. It may be accomplished by wiping out all basis of personal security, liberty, health and dignity ... the machine gun can always be utilized as a last resort'.

The Palestinian people constitute a national group for the purposes of the Convention on the Prevention and Punishment of the Crime of Genocide (the Genocide Convention). The Palestinians of the Gaza Strip are being targeted by Israel because they are Palestinian. The Palestinian population of Gaza appears to be presently subjected by the Israeli forces and authorities to widespread killing, bodily and mental harm, and unviable conditions of life – against a backdrop of Israeli statements which evidence signs of intent to physically destroy the population.

In February 2008, **Matan Vilnai**, Israel's deputy defence minister, declared that increasing tensions between the Israelis and Palestinians in the Gaza Strip could bring on themselves what he called a shoah, or holocaust: 'The more Qassam [rocket] fire intensifies and the rockets reach a longer range, they will bring upon themselves a bigger shoah because we will use all our might to defend ourselves.'

Israeli justice minister **Ayelet Shaked** posted a statement on Facebook in June 2014 claiming that 'the entire Palestinian people is the enemy' and called for the destruction of Palestine, 'including its elderly and its women, its cities and its villages, its property and its infrastructure'. Her post also called for the killing of Palestinian mothers who give birth to 'little snakes'.

In July 2014, the UN (United Nations) Special Adviser on the Prevention of Genocide and Special Adviser on the Responsibility to Protect issued a [warning](#) on the prevalence of racist and dehumanising language and hate speech calling for the killing of Palestinians on social media, in response to Israel's conduct against the protected Palestinian population.

In August 2014, **Moshe Feiglin**, then deputy speaker of the Israeli Knesset and member of Likud called for the destruction of Palestinian life in Gaza and offered a detailed plan for shipping Palestinians living in Gaza across the world.'

Distinguished scholars on genocide such as **Martin Shaw** and **Francis Boyle** have respectively described the settlement of Jews and the expulsion of Palestinians in Mandate Palestine and the long-term military occupation as genocidal. Boyle wrote in 2013:

'For over the past six and one-half decades, the Israeli government and its predecessors in law – the Zionist agencies, forces, and terrorist gangs – have ruthlessly implemented a systematic and comprehensive military, political, religious, economic, and cultural campaign with the intent to destroy in substantial part the national, ethnical, racial, and different religious group (Jews versus Muslims and Christians) constituting the Palestinian people.' Israeli historian Ilan Pappé and late human rights lawyer and Center for Constitutional Rights president Michael Ratner described Israel's occupation as 'incremental genocide'.

The **Russell Tribunal** on Palestine (2010-2014) found that 'The cumulative effect of the long-standing regime of collective punishment in Gaza appears to inflict conditions of life calculated to bring about the incremental destruction of the Palestinians as a group in Gaza. The Tribunal emphasises the potential for a regime of persecution to become genocidal in effect.'

On 1 March 2023 Israeli finance minister **Bezalel Smotrich** said, 'the village of Hawara needs to be wiped out'. Smotrich is the author of a 2017 paper advocating 'disproportionate' retribution to Palestinian terror, specifically 'transfer', i.e., ethnic cleansing. About 50% of Israeli Jews support expulsion.ⁱⁱ

On 13 October, as 1.1 million Palestinians are ordered to leave their homes, Israeli president **Isaac Herzog** [said](#) all Gaza civilians are guilty of the Hamas atrocity of 7 October: 'It is an entire nation out there that is responsible ... it is not true this rhetoric about civilians not being aware, not involved.'

On 14 October, the **UN Special Rapporteur** on the situation of human rights in the occupied Palestinian territory [warned](#) against ‘a repeat of the 1948 Nakba, and the 1967 Naksa, yet on a larger scale’ as Israel carries out ‘mass ethnic cleansing of Palestinians under the fog of war’.

On 15 October, nearly 800 scholars and practitioners of international law, conflict studies and genocide studies, including prominent Holocaust scholars, signed a [public statement](#) warning of the possibility of genocide being perpetrated by Israeli forces against Palestinians in the Gaza Strip, stating that they do not do ‘so lightly, recognising the weight of this crime, but the gravity of the current situation demands it’.

On 28 October, **Craig Mokhiber**, director of the New York office of UN High Commissioner for Human Rights, said in a [letter](#) on his retirement that the UN is failing in its duty to prevent ‘genocide’ of Palestinian civilians in Gaza, with US, UK and much of Europe ‘wholly complicit in the horrific assault’.

On 2 November, seven **UN experts** demanded a ceasefire ‘to [prevent](#) genocide’, saying Palestinian people ‘are at grave risk of genocide’ and that ‘the Israeli airstrike on a residential complex in the Jabalia refugee camp is a brazen violation of international law – and a war crime. Attacking a camp sheltering civilians including women and children is a complete breach of the rules of proportionality and distinction between combatants and civilians’.

On 5 November, the leaders of 18 international organisations in a UNICEF committee, including the UN Human Rights Commissioner **Volker Turk**, the WHO director **Dr Tedros Ghebreyesus**, the executive director of UNICEF, **Catherine Russell**, signed a joint statement calling for an immediate humanitarian ceasefire and pointing out that 88 UNRWA colleagues have been killed – the highest number of United Nations fatalities ever recorded in a single conflict, more than 100 attacks against health care reported, and 2.2 million Palestinians are cut off from food, water, medicine, electricity and fuel. ‘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.’ Israeli historian **Ilan Pappé** [said](#) that 7 October is being used by Israel as a pretext for genocidal policies, made possible by the ‘dehistoricisation of what is happening’.

ⁱ Most of the historical references in this note are from [Center for Constitutional Rights](#), *The genocide of the Palestinian people: an international law and human rights perspective* (2016)

ⁱⁱ Cited in *Is Israel on the brink of genocide?* [Michael Barnett](#), 6 March 2023.