



“ I didn't know if the baby was alive or dead ”

HOW ISRAEL IS INFLICTING ON PALESTINIANS IN GAZA CONDITIONS OF LIFE TO BRING ABOUT THEIR PHYSICAL DESTRUCTION

JUNE 2024



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This briefing presents an analysis of the unfolding genocide in Gaza from 7 October 2023 to 31 May 2024. CIHRS spoke with **13** Palestinians living in Gaza, consisting of **8** women who were pregnant during this time frame, **6** of whom gave birth in this time, in addition to **5** doctors.

CIHRS interviews are only referenced to support existing credible documentation, and are not a comprehensive survey of existing incidents.

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1. Executive summary

Since October 2023, Israel has been directing widespread indiscriminate and disproportionate attacks against the civilian population in Gaza. Despite mounting pressures from international courts and an overwhelming majority of other states.¹ Israel has persisted in its targeting of civilians and civilian infrastructure, including hospitals and camps for internally displaced persons (IDP camps). It has continued to impede access to humanitarian aid and essential resources, seriously deteriorating the living conditions in Gaza. With the ground attack on Rafah, carried out since 6 May, Israel has intensified its genocidal campaign by indiscriminately bombing one of the most densely populated areas in the world, where people are crammed in camps for internally displaced people. There are well founded reasonable grounds to say Israel is committing genocide, especially when viewing the violations in the broader context of Israel's institutionalized and systematic violations against Palestinians 76 years since the forced displacement of hundreds of thousands of Palestinians from their homes in what has become known as the Nakba, prolonged occupation of Palestinian territory, and 16 year-long blockade of Gaza.

Although discussions on the plausibility of a genocide unfolding in Gaza have been taking place since the early months of the hostilities, genocide remains one of the most challenging international crimes to establish. This briefing builds on the body of evidence by academics, UN independent experts and international jurisdictions to establish that elements of the crime of genocide may be being committed in Gaza. The crime of genocide consists of a set of 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 awithin the group; and forcibly transferring children of the group to another group.**²

¹ UN General Assembly votes by large majority for immediate humanitarian ceasefire during emergency session, UN News, 12 December 2023, <https://news.un.org/en/story/2023/12/1144717>

² Article II, Convention on the Prevention and Punishment of the Crime of Genocide, 1948

Genocide is therefore not only committed through direct killings and massacres, but could also arise from acts that could lead to the physical destruction of a protected group. In applying the international case law on this specific subset of genocide, the briefing seeks to demonstrate how Israel's obstruction of humanitarian aid, as well as the shelter, food and water conditions deliberately imposed on the population in Gaza have created conditions that are bringing about the physical destruction of Palestinian people.

In April and May 2024, CIHRS held 13 interviews with Palestinians in Gaza, focusing on pregnant and breastfeeding women from northern Gaza forcibly displaced to Deir al Balah, central Gaza, and doctors working in hospitals in Gaza. CIHRS interviews are only referenced to support existing credible documentation, and are not a comprehensive survey of existing incidents. Intense hostilities in Gaza have significantly impacted phone service and connection, which hindered CIHRS' ability to reach more interviewees.

There is extensive direct and circumstantial evidence of Israel's intent to destroy Palestinians in Gaza and this genocidal intent may be inferred from direct statements from its officials dehumanizing Palestinians, used with impunity,³ as well as the overall context, the scale of atrocities, and the systematic targeting of Palestinians.⁴

On 20 May, the ICC Prosecutor's Office found that Israel's acts in Gaza were part of a common plan to use starvation as a method of war and other acts of violence against Palestinians in Gaza.⁵ Since October 2023, Israel has obliterated entire neighborhoods and vital infrastructure and services, using more than 45,000 bombs in the first three months.⁶ Israel has fully or partially destroyed more than 60 percent of Gaza's residential buildings,⁷ indicating disproportionate use of force. By 31 May

³ Law for Palestine, Law for Palestine Releases Database with 500+ Instances of Israeli Incitement to Genocide – Continuously Updated, 4 January 2024. <https://law4palestine.org/law-for-palestine-releases-database-with-500-instances-of-israeli-incitement-to-genocide-continuously-updated/>

⁴ Prosecutor v. Goran Jelisić (IT-95-10-A), ICTY, 5 July 2001 <https://cld.irmct.org/assets/filings/Judgement-Jelasic.pdf>

⁵ ICC, Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for arrest warrants in the situation in the State of Palestine, Press Release, 20 May 2024, <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-applications-arrest-warrants-situation-state>

⁶ OCHA, Hostilities in the Gaza Strip and Israel | Flash Update #72, 18 December 2023, <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-72>

⁷ OCHA, Hostilities in the Gaza Strip and Israel - Reported humanitarian impact, 20 May 2024 at 15:00, 20 May 2024, <https://reliefweb.int/report/occupied-palestinian-territory/hostilities-gaza-strip-and-israel-reported-humanitarian-impact-20-may-2024-1500>

2024, Israeli forces had killed 36,284 Palestinians, of which 32 percent were children and 20 percent were women, with an estimated more than 10,000 bodies still under the rubble, as well as 82,057 injured.⁸ More than 75 percent of Gazans have been displaced and thousands of these people were killed in their homes, during forced displacement journeys, or even in designated safe areas.⁹ Speaking with CIHRS, interviewees recalled fleeing their homes in Northern Gaza to the South, under phosphorus attacks, missiles, and airstrikes, with dead bodies surrounding them. All 13 interviewees said shelters were overcrowded and lacked the necessary infrastructure, some shared difficulties with rashes, diseases and infections due to lack of hygiene and sanitation services at their shelters.

Famine in Gaza has been setting in, with at least 32 people, of whom 28 are children, having already died of hunger,¹⁰ and 1.1 million people projected to be at catastrophic levels of food insecurity in Gaza by July 2024.¹¹ Some interviewees testified to CIHRS that they have not received any humanitarian assistance in three months, while others shared that they only received basic food assistance on an irregular basis. One interviewee, recalling the impact of this situation during her pregnancy, told CIHRS:

“Most of the time, we went to bed dying of hunger. We stayed constantly hungry for two months.”

“Aya”, Gaza, 17 April¹²

Pregnant and breastfeeding women are facing particular vulnerabilities. The hostilities and living conditions have increased the risk of miscarriages, stillbirths, and premature births.¹³ All eight pregnant interviewees shared that they have been

⁸ OCHA, Hostilities in the Gaza Strip and Israel | Flash Update #173, 31 May 2024, <https://t.ly/KhX4G>

⁹ Insecurity Insight, Protection in Danger in the occupied Palestinian territories (oPt): Incidents of threats and violence in refugee camps (April 2024), 30 April 2024 <https://reliefweb.int/report/occupied-palestinian-territory/protection-danger-occupied-palestinian-territories-opt-incidents-threats-and-violence-refugee-camps-april-2024>

¹⁰ Health Cluster, WHO, Public Health Situation Analysis (PHSA) on Hostilities in the occupied Palestinian territory (oPt) - 02 May 2024, 2 May 2024, <https://t.ly/dmLMt>

¹¹ WFP, Global Report on Food Crises: acute hunger remains persistently high in 59 countries with 1-in-5 people assessed in need of critical urgent action, 24 April 2024, <https://www.wfp.org/news/global-report-food-crises-acute-hunger-remains-persistently-high-59-countries-1-5-people>

¹² Phone Interview with “Aya”, Gaza, 17 April 2024 (Name has been changed to respect the interviewee’s anonymity)

¹³ WHO, Women and newborns bearing the brunt of the conflict in Gaza, UN agencies warn, 3 November 2023, <https://www.who.int/news/item/03-11-2023-women-and-newborns-bearing-the-brunt-of-the-conflict-in-gaza-un-agencies-warn>

unable to get the necessary prenatal vitamins and pregnancy vaccinations, see a doctor, or conduct the necessary check-ups throughout their pregnancy after 7 October. Their diet could not provide the necessary nutrition either, as they mainly relied on canned foods received as food assistance at their shelters. All six interviewees who gave birth after 7 October shared that the hospitals they were at did not have any anesthesia or painkillers, and that they were unable to produce sufficient natural milk for breastfeeding due to lack of proper nutrition, forcing them to purchase milk, often relying on loans from relatives. All of these women stated they did not receive any aid during pregnancy or postpartum while caring for their newborns.

The combination of the attacks with the obstruction of delivery of aid and closure of border crossings, to the point that Palestinians are left to starve, with limited access to life-saving medical services, food and safe shelters, in addition to the high civilian casualties, especially those of women and children, may indicate Israel's intention to destroy the Palestinian people as a group.

Gaza requires the urgent adoption of an immediate and permanent ceasefire, and prompt expansion of humanitarian aid provision to ensure that the basic needs of Palestinians in Gaza are met. Israel should comply with the ICJ orders to halt its military operation in Rafah, open land crossings into Gaza, and allow swift aid delivery and humanitarian access into Gaza.

Responsibility for the failure to protect Palestinians in Gaza from further violence falls not only on Israel, but also on the states that continue to provide it with the political, financial or military backing that has enabled it to perpetrate these violations that meet the threshold of genocide. The international community must act now, not only to pressure for an immediate and permanent ceasefire but to also prevent what the ICJ has qualified as plausibly genocide. Israel's allies must end their contributions to Israel's war crimes by withholding financial assistance and arms supplies to Israel, or risk being found liable for the crime of complicity in genocide. Arab states have notably failed to exercise efforts to hold Israel accountable and should present an effective plan to establish and maintain a ceasefire, and to meet the humanitarian and security needs of the Palestinians.

Those responsible for the serious international crimes committed by Hamas and other Palestinian groups on 7 October, including the holding of civilian hostages,

and by Israel in Gaza and the West Bank must be identified and held accountable. To that end, full access to the Gaza Strip and other affected areas must be provided to independent international investigatory mechanisms in order to establish the factual record of the actions of all parties that have facilitated or committed grave international crimes since 7 October 2023, plausibly including the crime of genocide.

2. Methodology

This briefing presents an analysis of the unfolding genocide in Gaza from 7 October 2023 to 31 May 2024. CIHRS spoke with **13** Palestinians living in Gaza, consisting of eight women who were pregnant during this time frame, six of whom gave birth in this time, in addition to five doctors. The doctors work at: Al Awda, Nasser, Al Najjar, Al Emirati and Al Shifa hospitals. All of the women have been forcibly displaced from Northern Gaza to Deir el Balah, Central Gaza. The interviews were conducted on a one-on-one basis, through a secure online platform, in Arabic without interpreters, to ensure the integrity of the information being shared as well as the security of the individuals reporting their experiences.

CIHRS reviewed available open-source information from credible sources, as well as international court orders and judgments, and existing jurisprudence. CIHRS interviews are only referenced to support existing credible documentation, and are not a comprehensive survey of existing incidents. Intense hostilities in Gaza have significantly impacted phone service and connection, which hindered CIHRS' ability to reach interviewees.

Names, identifying information, affiliations, and specific details of the interviewees have been redacted in most cases in order to ensure their anonymity and protect their security.

3. Introduction

Since October 2023, Israel has launched an unprecedented war on Gaza, conducting indiscriminate attacks on civilians and civilian infrastructure crucial for the survival of the Palestinian population. UN independent experts,¹⁴ scholars,¹⁵ and states, including South Africa before the International Court of Justice (ICJ),¹⁶ have warned that Israel's actions in Gaza may constitute genocide. This has not, however, stopped Israel from intensifying its genocidal campaign on the Palestinian people in Gaza. In January 2024, the ICJ found a plausible risk of “irreparable prejudice” to the rights of Palestinians in Gaza,¹⁷ and ordered provisional measures for Israel to “take all measures within its power” to prevent genocidal acts, prevent and punish incitement to genocide, and ensure urgent humanitarian aid.¹⁸

In March 2024 and due to the deteriorating living conditions for Palestinians in Gaza, particularly the spread of starvation, the ICJ reiterated the provisional measures of its January order, additionally ordering Israel to fully cooperate with the United Nations and “take all necessary and effective measures to ensure, without delay” the unimpeded provision of urgently needed services and humanitarian aid.¹⁹ On 24 May, the ICJ reaffirmed its previous measures and, “in view of the worsening conditions of life faced by civilians in the Rafah Governorate”, indicated additional measures calling on Israel to immediately halt its operations in the area. Days earlier, on 20 May, the ICC Prosecutor requested arrest warrants on charges of war crimes and crimes against humanity for the Prime Minister of Israel, Benjamin Netanyahu, and the Minister of Defense of Israel, Yoav Gallant, as well as three Hamas leaders.²⁰

¹⁴ OHCHR, Gaza: UN experts call on international community to prevent genocide against the Palestinian people, Press release, 16 November 2023, <https://www.ohchr.org/en/press-releases/2023/11/gaza-un-experts-call-international-community-prevent-genocide-against>

¹⁵ R. Segal, “Statement of Scholars in Holocaust and Genocide Studies on Mass Violence in Israel and Palestine since 7 October”, *Contending Modernities*, 9 December 2023, <https://contendingmodernities.nd.edu/global-currents/statement-of-scholars-7-october/>

¹⁶ *South Africa v Israel* (CR 2024/1), verbatim record, International Court of Justice (2024) <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240111-ora-01-00-bi.pdf>

¹⁷ *South Africa v Israel* (CR 2024/1), order of 26 January 2024, International Court of Justice (2024) para 54 <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-00-en.pdf>

¹⁸ *Ibid* paras 77-86

¹⁹ *South Africa v Israel* (CR 2024/1), order of 28 March 2024, International Court of Justice (2024) <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240328-ord-01-00-en.pdf>

²⁰ Statement of ICC Prosecutor Karim, 20 May 2024, <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-applications-arrest-warrants-situation-state>

Despite mounting pressures from international courts, and in total disregard to the ICJ's orders, Israel persisted and even intensified its genocidal campaign in Gaza and has continued to use disproportionate force and to target civilians and civilian infrastructure, notably hospitals and IDP camps, as well as using starvation as a weapon of war and impeding access of humanitarian aid. As of 31 May 2024, Israeli bombardments from air, land and sea continue across much of the Gaza Strip, including Rafah, with at least 36,284 Palestinians killed and 82,057 injured.²¹

Vital supplies, notably fuel and medicine, are running out due to Israel closing main border crossings and impeding access and aid delivery.²² On 6 May, after months of warnings by human rights institutions and experts, including CIHRS,²³ of the humanitarian consequences of a ground operation in Rafah, Israel sent a warning to Palestinians in eastern Rafah to “evacuate” into an “expanded humanitarian area” in Al-Mawasi.²⁴ That same day, Israel launched its ground military operation into Rafah, took control of the Rafah border crossing, and halted entry of humanitarian aid from this crossing, without providing any alternative,²⁵ forcibly displacing almost a million people.²⁶

The silence of Israel's main allies and Arab countries continues to enable Israel's persistent war crimes. An immediate and permanent ceasefire is urgently needed in Gaza and these states also have the responsibility to prevent or stop genocide. Their silence, financial assistance or supply of weapons to Israel indicates their collective complicity in Israel's genocidal campaign on Gaza.

Although discussions on the plausibility of a genocide unfolding in Gaza have been taking place since the early months of the hostilities, genocide remains one of the most challenging international crimes to establish. The crime of genocide is particularly distinguished by the concept of the extermination of a group, coupled with the intent to destroy it.²⁷ The UN General Assembly has described the crime of

²¹ Hostilities in the Gaza Strip and Israel | Flash Update #173, <https://t.ly/KhX4G>

²² OCHA, Hostilities in the Gaza Strip and Israel | Flash Update #172, 29 May 2024, <https://t.ly/pTC6P>

²³ Cairo Institute for Human Rights Studies, Palestine: Airstrikes on Rafah should prompt urgent action to stop genocidal campaign, Press Release, 13 February 2024, <https://t.ly/ESJ3V>

²⁴ UN pledges to stand with Gazans in Rafah; Guterres says ceasefire opportunity 'cannot be missed', UN News, 6 May 2024, <https://news.un.org/en/story/2024/05/1149366>

²⁵ UNSC, Speakers in Security Council Urge Israel to Stop Military Incursions into Rafah, Meeting Coverage, SC/15701, 20 May 2024, <https://press.un.org/en/2024/sc15701.doc.htm>

²⁶ OCHA, Hostilities in the Gaza Strip and Israel | Flash Update #172, 29 May 2024, <https://t.ly/pTC6P>

²⁷ A. Guellali, Legal Challenges to Describing Israeli Crimes in Gaza as Genocide, doi.org/10.53833/QAQQ1356

of genocide as “a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings” adding that such denial “shocks the conscience of mankind”.²⁸ The internationally recognized definition of genocide, since the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide in 1948, denotes a set of acts committed “with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such”.²⁹ These acts may be deliberate actions or omissions, such as failing to protect the group from harm,³⁰ and are limited to the following:³¹

1. killing members of the group;
2. causing serious bodily or mental harm to members of the group;
3. deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
4. imposing measures intended to prevent births within the group; and
5. forcibly transferring children of the group to another group.

While Israel’s acts may fit into more than one of the genocidal acts above, this briefing will focus on the act of deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.

This act reflects methods of destruction in which the perpetrator does not immediately kill the members of the group but rather commits acts or refrains from committing acts that ultimately aim at their physical destruction. This encompasses deaths resulting from direct actions or arising from neglect, including those caused by deliberate starvation, disease or other survival-threatening conditions imposed on the group,³² such as reducing essential medical services to below the minimum requirement,³³ depriving the group of housing, clothes, employment and hygiene,

²⁸ UNGA (1946) Resolution 96 (I) <https://digitallibrary.un.org/record/209873?v=pdf>

²⁹ Article II, Convention on the Prevention and Punishment of the Crime of Genocide, 1948

³⁰ Prosecutor v. Kambanda, ICTR-97-23-S, Judgment, 04 September 1998, para.39 (ix); Schabas, *Genocide in International Law* (footnote 32), pp. 177–178.

³¹ Article II, Genocide Convention.

³² ICC, *Elements of Crimes* (2013), p. 2 <https://www.icc-cpi.int/sites/default/files/Publications/Elements-of-Crimes.pdf>

Prosecutor v. Krnojelac (IT-97-25-T), International Criminal Tribunal for the former Yugoslavia (2002)

³³ Prosecutor v Rutaganda (ICTR-96-3-T), International Criminal Tribunal for Rwanda (1999), para 52

or subjecting them to a subsistence diet, systematically displacing them or evicting them from their homes and reducing essential medical services below the minimum required.³⁴ It also includes the creation of circumstances that would lead to a slow death such as lack of adequate housing, clothing, and hygiene.³⁵ It is not necessary that these conditions actually bring the result of destruction, however, these conditions must be calculated to bring this destruction or must intend to achieve this result.³⁶

In addition, the ICTY considered that, “in the absence of direct evidence of whether the conditions of life imposed on the group were deliberately calculated to bring about its physical destruction, a chamber can be guided by the objective probability of these conditions leading to the physical destruction of the group in part. The actual nature of the conditions of life, the length of time that members of the group were subjected to them, and the characteristics of the group such as its vulnerability are illustrative factors to be considered in evaluating the criterion of probability.”³⁷

Israel had been restricting essential services for Gazans even prior to 7 October, including access to humanitarian aid, medical services, electricity, water and sanitation and employment,³⁸ particularly through prolonged blockades and border crossing closures.³⁹ These restrictions have drastically increased, in addition to Israel’s indiscriminate attacks on civilians and civilian infrastructure in Gaza, producing conditions of life that have reached unprecedented catastrophic levels. This deterioration in conditions of life has been noted by international courts in recent months. In May 2024, the ICJ noted that “the catastrophic humanitarian situation” in the Gaza Strip which, as stated in its Order of 26 January 2024, was at serious risk of deteriorating, has deteriorated, and has done so even further since the Court adopted its Order of 28 March 2024.⁴⁰ The Court found that Israel’s military

³⁴ The Prosecutor v. Jean-Paul Akayesu (ICTR-96-4-T), ICTR Trial Chamber (1998) paras 505-506

³⁵ The Prosecutor v. Radoslav Brđanin (IT-99-36), ICTY Trial Chamber (2004) para 691

³⁶ Elements of Crime, p. 2 <https://www.icc-cpi.int/sites/default/files/Publications/Elements-of-Crimes.pdf>.

³⁷ Prosecutor v. Radovan Karadžić, Case No. IT-95-5/18-T, Public Redacted Version of Judgment Issued on 24 March 2016, 24 March 2016, paras 548, ICC Legal Tools Database | Public Redacted Version of Judgement issued on 24 March 2016 ([legal-tools.org](https://www.legal-tools.org))

³⁸ Oxfam, Occupied Palestinian Territory and Israel Crisis Accountability Report - April 2024, 15 May 2024 <https://www.oxfam.org/en/research/oxfam-6-month-accountability-report-occupied-palestinian-territory-and-israel-crisis>

³⁹ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 - Advance unedited version, UN Doc. A/HRC/55/73, para. 36 <https://www.ohchr.org/en/documents/country-reports/ahrc5573-report-special-rapporteur-situation-human-rights-palestinian>

⁴⁰ South Africa v Israel (CR 2024/1), order of 24 May 2024, International Court of Justice (2024) <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240524-ord-01-00-en.pdf>

operation in Rafah entails a “further risk of irreparable prejudice” to rights under the Genocide Convention and that there exists “a real and imminent risk that such prejudice will be caused before the Court gives its final decision.”⁴¹

In May 2024, the ICC Prosecutor’s Office clearly stated that they have examined evidence indicating that Israel has “intentionally and systematically deprived the civilian population in all parts of Gaza of objects indispensable to human survival”. This was done through the complete closure of three border crossings – Rafah, Karem Abu Salem/Kerem Shalom and Erez for extended periods and through the restriction of transfer and delivery of essential supplies. Israel has also cut off cross-border water pipelines into Gaza, the city’s main source of clean water, and hindered its electricity supplies since October 2023, as well as attacked civilians as they wait for humanitarian aid, obstructing aid deliveries and attacking aid workers.⁴²

While Israel’s restrictions have notably involved humanitarian aid access and delivery, it has also significantly impacted other living conditions, from forced displacement, inadequate shelters and access to hygiene, sanitation, nutrition, and

⁴¹ Ibid.

⁴² Statement of ICC Prosecutor Karim A.A. Khan KC, 20 May 2024, <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-applications-arrest-warrants-situation-state>

4. Conditions of life in Gaza

4.1 Forced displacement

While it is not in and of itself considered as genocide, forced displacement is a further demonstration of the conditions of life Israel has imposed on Palestinians in Gaza that will bring about their physical destruction. International courts have not considered forced displacement as genocide. For example, in the *Croatia v. Serbia* case in 2015, the ICJ found that while the forced displacement in this case was not carried out with genocidal intent, and that it was a “consequence” of other actions that could be viewed as ‘acts of genocide,’⁴³ that it could also constitute genocide when “taking place in circumstances calculated to bring about the physical destruction of the group”.⁴⁴

Furthermore, in the second decision on the Prosecutor’s warrant of arrest for Omar al Bashir, the pre-trial chamber of the ICC admitted, after examining the material provided by the prosecutor on the commission of genocide against people displaced in IDP camps in Darfur, that “one of the reasonable conclusions that can be drawn is that the acts of contamination of water pumps and forcible transfer coupled by resettlement by member of other tribes, were committed in furtherance of the genocidal policy, and that the conditions of life inflicted on the Fur, Masalit and Zaghawa groups were calculated to bring about the physical destruction of a part of those ethnic groups.”⁴⁵

Since October 2023, Israel has repeatedly called on Gazans to evacuate certain areas, while failing to provide them with sufficient time, a safe route, and a safe place of refuge. On 12 October 2023, Israel warned approximately 1.1 million Palestinians in Northern Gaza to relocate to the South within 24 hours,⁴⁶ only to attack civilians fleeing south.⁴⁷ UN experts condemned the evacuation order as an act of forcible

⁴³ *Croatia v. Serbia*, ICJ (2015) paras 428, 376. <https://www.icj-cij.org/sites/default/files/case-related/118/118-20150203-JUD-01-00-EN.pdf>

⁴⁴ *Ibid*, para 163

⁴⁵ ICC, Pre-trial Chamber I, Second Decision on the Prosecution’s Application for a Warrant of Arrest, the Prosecutor v. Omar Hassan Ahmad al Bashir, 12 July 2010, para.38, https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2010_04826.PDF

⁴⁶ OHCHR, UN expert warns of new instance of mass ethnic cleansing of Palestinians, calls for immediate ceasefire, Press Release, 14 October 2023, <https://www.ohchr.org/en/press-releases/2023/10/un-expert-warns-new-instance-mass-ethnic-cleansing-palestinians-calls>

⁴⁷ “They followed evacuation orders. An Israeli airstrike killed them the next day”, CNN, 17 October 2023. <https://edition.cnn.com/2023/10/16/middleeast/israel-palestinian-evacuation-orders-invs/index.html>

population transfer constituting “a crime against humanity” and “a blatant violation of international humanitarian law”.⁴⁸ As of 25 May 2024, **the UN estimates that 1.7 million Palestinians in Gaza have been displaced,⁴⁹ and approximately 78 percent of the Gaza Strip is under evacuation orders.⁵⁰**

Following Israel’s evacuation orders from North Gaza to South Gaza in October 2023, the population in Rafah, Gaza’s southernmost region, significantly increased by 1.5 million displaced Palestinians.⁵¹ Despite having stated it was a safe zone, Israel continued to attack Rafah by air,⁵² and on 6 May, launched a military ground operation into Rafah.⁵³ Israel instructed people to head to Al-Mawasi, labeling it a safe zone;⁵⁴ In reality, however, Al-Mawasi is an overcrowded area lacking necessary infrastructure and conditions to house hundreds of thousands of additional people.⁵⁵ According to UNRWA, the areas people are now fleeing to lack safe water or sanitation services. Giving Al-Mawasi as an example, UNRWA explained that it is “a sandy 14 square kilometers agricultural land, where people are left out in the open with little to no buildings or roads. It lacks the minimal conditions to provide emergency humanitarian assistance in a safe and dignified manner.”

Additionally, Israel has attacked previously designated safe areas numerous times, as it has done most recently with Rafah, making nowhere in Gaza safe.⁵⁶ Recalling being forced to flee their home to the Central Gaza, a northern Gazan told CIHRS

⁴⁸ OHCHR, Israel must rescind evacuation order for northern Gaza and comply with international law: UN expert, Press Release, 13 October 2023, <https://www.ohchr.org/en/press-releases/2023/10/israel-must-rescind-evacuation-order-northern-gaza-and-comply-international>

⁴⁹ OCHA, Hostilities in the Gaza Strip and Israel | Flash Update #172, 29 May 2024, <https://t.ly/pTC6P>

⁵⁰ Ibid.

⁵¹ UNRWA, UNRWA Situation Report #75 on the Situation in the Gaza Strip and The West Bank, Including East Jerusalem, 10 February 2024, <https://www.unrwa.org/resources/reports/unrwa-situation-report-75-situation-gaza-strip-and-west-bank-including-east-jerusalem>

⁵² Amnesty International, New evidence of unlawful Israeli attacks in Gaza causing mass civilian casualties amid real risk of genocide, 12 February 2024, <https://www.amnesty.org/en/latest/news/2024/02/israel-opt-new-evidence-of-unlawful-israeli-attacks-in-gaza-causing-mass-civilian-casualties-amid-real-risk-of-genocide/>

⁵³ ICJ order of 24 May 2024, para 28 <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240524-ord-01-00-en.pdf>

⁵⁴ OCHA, Flash Update #172 <https://t.ly/pTC6P>

⁵⁵ Gaza humanitarian update - UNRWA 6 May 2024, UN News, 6 May 2024, <https://www.unognewsroom.org/story/en/2165/gaza-humanitarian-update-unrwa-06-may-2024/0>

⁵⁶ OCHA, Flash Update #172 <https://t.ly/pTC6P>

“The streets were really scary. There were dead bodies around us and people screaming “[They] are targeting everyone! Go back!” We got scared and went back [home] but hours later, we had to leave again because they started attacking with phosphorus. Anywhere we went, the land behind me was getting hit with phosphor. I saw lit-up bombs falling, black smoke turning white.” She then adds “We’ve lived through many wars, but we’ve never seen a war like this. Wherever you go, you are in danger.”

*“Samar”, Gaza, 4 April.*⁵⁷

Between 6 and 18 May, Israel ordered six evacuation orders for Rafah and four orders for Northern Gaza.⁵⁸ During this time, approximately 900,000 people or nearly 40 percent of Gaza’s population have been displaced again, including at least 812,000 displaced from Rafah and more than 100,000 people displaced in northern Gaza.⁵⁹ They have been forced to flee multiple times, undertake unsafe routes amid indiscriminate attacks and bombings, to seek refuge in overcrowded and inadequate areas. Telling CIHRS about her experience fleeing from Northern Gaza to Central Gaza, an interviewee said,

“We walked on foot under airstrikes and missiles, screaming “this is it. We’re going to die. We’re not going to make it”. When they finally made it to Deir al Balah in the middle of the night, a car was targeted in front of them. “All the people inside the car died. The mother, the children, the husband. It was abnormal.”

*“Sarah”, Gaza, 30 April.*⁶⁰

The circumstances that Israel has imposed on people in Gaza during forced displacement, from multiple evacuations to unfit and inadequate areas, to attacks during displacement, and then attacks at the “safe” areas, are conducive to an increase in death and may be an element of genocide as it may bring about the destruction of Palestinians.

⁵⁷ Phone Interview with “Samar”, Gaza, 4 April. (Name has been changed to respect the interviewee’s anonymity)

⁵⁸ OCHA, Hostilities in the Gaza Strip and Israel | Flash Update #168, 20 May 2024, <https://t.ly/R2waA>

⁵⁹ Ibid.

⁶⁰ Phone Interview with “Sarah”, Gaza, 30 April. (Name has been changed to respect the interviewee’s anonymity)

4.2 Humanitarian situation

International tribunals have repeatedly examined how, in certain circumstances, the conditions of life imposed on a protected group are part of genocide in that they are “calculated to bring about” its physical destruction. For example, in the Prosecutor v. Radoslav Brđanin, the Trial Chamber of the International Criminal Tribunal for the former Yugoslavia (ICTY) found that “The food in the camp was extremely insufficient, consisting of a thin broth and a slice of bread twice a day. As a result, many detainees lost weight and became very thin. Some detainees were so hungry they resorted to eating grass,” and relied on this factor to assess the commission of genocide.⁶¹

Israel’s persistent disruption of humanitarian efforts and aid in Gaza flagrantly violates its obligations under international law as well as the UN Security Council Resolutions 2720,⁶² and 2728,⁶³ and the provisional measures ordered by the ICJ. Israel has closed Gaza’s main border crossings for prolonged periods of time over the years, especially after October 2023. As of 30 May, Rafah border crossing is closed and while Karem Abu Salem/Kerem Shalom border crossing has reportedly reopened, humanitarian aid deliveries continue to be hampered at this border, with a continued lack of safe and logistically viable access to this crossing.⁶⁴ A new crossing, Erez West, opened in May and is being used for limited quantities of aid, while the surrounding areas are under evacuation orders.⁶⁵

Restrictions for aid delivery are further compounded by the significant infrastructural damage, the widespread debris and the insecurity and indiscriminate attacks in the area,⁶⁶ including attacks on aid delivery trucks with no accountability for the perpetrators.⁶⁷ Since October 2023, Israeli forces have repeatedly targeted and attacked aid convoys and premises, despite aid groups providing their coordinates

⁶¹ Prosecutor v. Radoslav Brđanin, Case No. IT-99-36-T, Judgement (TC), 1 September 2004, paras. 912, ICC Legal Tools Database | Judgement (legal-tools.org)

⁶² UN Security Council, Resolution 2720, S/RES/2720 (2023), <http://unscr.com/en/resolutions/doc/2720>

⁶³ UNSC, Resolution 2728, S/RES/2728 (2024), <http://unscr.com/en/resolutions/2728>

⁶⁴ OCHA, Hostilities in the Gaza Strip and Israel | Flash Update #167, 18 May 2024 <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-167>

⁶⁵ UN, Speakers in Security Council Urge Israel to Stop Military Incursions into Rafah, Meetings Coverage, 20 May 2024, <https://press.un.org/en/2024/sc15701.doc.htm>

⁶⁶ OCHA, Hostilities in the Gaza Strip and Israel | Flash Update #165, 12 May 2024, <https://t.ly/jb6kf6>

⁶⁷ Ibid.

to Israeli authorities for protection.⁶⁸ As a result, over 250 aid workers have been killed in Gaza since 7 October 2023.⁶⁹

Throughout the month of April, only an average of 193 truckloads, including fuel, entered Gaza on a daily basis compared to an average of 500 truckloads per day before the crisis in 2023.⁷⁰ On 27 May, UNRWA said that out of the 200 trucks of humanitarian supplies the day before, only 30 were picked up due to “heavy movement restrictions, ongoing Israeli Forces airstrikes and the launch of rockets by Hamas.”⁷¹

The consequences are dire for the conditions of life in Gaza. Restrictions on aid delivery have severely depleted essential supplies,⁷² and without access to fuel, medical facilities and ambulances face closure, risking the lives of vulnerable people, especially infants, pregnant women, and trauma patients.⁷³ The lack of fuel to power generators for electricity is critically threatening the medical sector,⁷⁴ especially for patients in Intensive Care Units, newborns, trauma patients and pregnant women in need of cesarean sections.⁷⁵ As of 30 May, only 14 hospitals in Gaza out of 36 are partially functioning, although several are inaccessible or no longer providing inpatient services, with a current capacity of a total 1,292 inpatient beds, approximately 36 percent of the original overall capacity.⁷⁶ All hospitals in Rafah are now closed, and the last two functioning hospitals in North Gaza, Al Awda hospital and Kamal Adwan hospital, which originally served 150,000 people, are inaccessible due to Israeli attacks.⁷⁷

⁶⁸ Human Rights Watch, Gaza: Israelis Attacking Known Aid Worker Locations, Press Release, 14 May 2024, <https://www.hrw.org/news/2024/05/14/gaza-israelis-attacking-known-aid-worker-locations>

⁶⁹ OCHA, Humanitarian Access Snapshot - Gaza Strip | 1-30 April 2024, 19 May 2024, <https://www.ochaopt.org/content/humanitarian-access-snapshot-gaza-strip-1-30-april-2024>

⁷⁰ OCHA, Hostilities in the Gaza Strip and Israel - reported impact | Day 231, 3 June 2024, https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-reported-impact-day-231?_gl=1*1byvmup*_ga*MjA4NTcwNTc1MS4xNzEzMTgyMDk3*_ga_E60ZNX2F68*MTcxNzUxNDE2NS42OS4xLjE3MTc1MTQxODcuMzguMC4w

⁷¹ The scenes coming out of #Rafah last night are harrowing; UNRWA, 27 May 2024, <https://www.unrwa.org/newsroom/official-statements/scenes-coming-out-rafah-last-night-are-harrowing>

⁷² Save the Children, Gaza: families fleeing rafah say they are being 'killed slowly' as forced to move again, 14 May 2024 <https://www.savethechildren.net/news/gaza-families-fleeing-rafah-say-they-are-being-killed-slowly-forced-move-again>

⁷³ OCHA, Hostilities in the Gaza Strip and Israel | Flash Update #164, 10 May 2024, <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-164>

⁷⁴ OCHA, Flash Update #164, <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-164>

⁷⁵ UNRWA, Situation Report #107 on the situation in the Gaza Strip and the West Bank, including East Jerusalem, 14 May 2024, <https://www.unrwa.org/resources/reports/unrwa-situation-report-107-situation-gaza-strip-and-west-bank-including-east-jerusalem>

⁷⁶ WHO, oPt Emergency Situation Update Issue 32, 30 May 2024, https://www.emro.who.int/images/stories/Sitrep_-_issue_32c.pdf

⁷⁷ Ibid.

With insufficient levels of humanitarian aid, hunger levels in Gaza are at alarming rates and some people are already dying of hunger, with 1.1 million people projected to be at catastrophic levels of food insecurity in Gaza by July 2024.⁷⁸ On 20 May 2024, the ICC Prosecutor office stated that there are reasonable grounds to believe that the Israeli officials are responsible for war crimes and crimes against humanity including the “starvation of civilians as a method of warfare”.⁷⁹ Earlier in March, the ICJ concluded that **“Palestinians in Gaza are no longer facing only a risk of famine, as noted in the Order of 26 January 2024, but that famine is setting in.”**⁸⁰ This was reflected in April in a World Food Programme (WFP) warning of “reasonable evidence that all three famine thresholds: food insecurity, malnutrition, mortality, will be passed in the next six weeks in Gaza”.⁸¹ At least 32 people, including 28 children, had already died of hunger by 1 April.⁸²

In April and May 2024, CIHRS spoke with 13 Palestinians who had been forcibly displaced, some of whom testified that they have not received any humanitarian assistance in three months, while others shared that they only received basic food assistance on a sporadic basis, having to rely on loans from relatives and friends to purchase basic necessities. All of the interviewees have no access to safe and sufficient drinking water and limited access to food, and have all shared that there have been many days where they ate less than one meal per day, while their main food source is canned foods and their water source is fresh water. According to UNICEF, 96 percent of Gaza’s water is unfit for human consumption.⁸³ Already in November 2023, UNRWA had warned that approximately 70 percent of the population in Gaza is drinking salinized and contaminated water.⁸⁴ Pregnant and breastfeeding Palestinians in Gaza in Deir al Balah school that CIHRS spoke with, shared how this situation has impacted them.

⁷⁸ WFP, Global Report on Food Crises: acute hunger remains persistently high in 59 countries with 1-in-5 people assessed in need of critical urgent action, 24 April 2024, <https://www.wfp.org/news/global-report-food-crises-acute-hunger-remains-persistently-high-59-countries-1-5-people>

⁷⁹ Statement of ICC Prosecutor, 20 May 2024, <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-applications-arrest-warrants-situation-state>

⁸⁰ South Africa v Israel (CR 2024/1), order of 28 March 2024, International Court of Justice (2024), para 21, <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240328-ord-01-00-en.pdf>

⁸¹ Global Report on Food Crises, <https://www.wfp.org/news/global-report-food-crises-acute-hunger-remains-persistently-high-59-countries-1-5-people>

⁸² Health Cluster, WHO, Public Health Situation Analysis (PHSA) on Hostilities in the occupied Palestinian territory (oPt) - 02 May 2024, 2 May 2024, <https://t.ly/dmLMt>

⁸³ UNICEF, WASH: water, sanitation and hygiene: Providing clean water to children in the State of Palestine, <https://www.unicef.org/sop/what-we-do/wash-water-sanitation-and-hygiene> last access: 6 June 2024.

⁸⁴ OHCHR, Israel must stop using water as a weapon of war: UN expert, 17 November 2023. <https://www.ohchr.org/en/press-releases/2023/11/israel-must-stop-using-water-weapon-war-un-expert>

“There were many days where we could not eat. There wasn’t any flour at all, and the food was almost non-existent. I gave whatever food was available to my son and daughter. My husband and I would eat last even though I was pregnant. Most of the time, we went to bed dying of hunger. We stayed constantly hungry for two months.”

“Aya”, Gaza, 17 April⁸⁵

Since the ground offensive on Rafah in May, CIHRS has been unable to reach people in Gaza, due to intense hostilities and phone service and connectivity issues. While the availability and quality of food was already a major problem highlighted by many interviews prior to the military operation, their situation is likely to have deteriorated in the past month.

“Food aid is really low and really rare. When we do receive food aid, it is around 1 egg for every 3 persons, or one can of beans for the whole family. When we first arrived at this shelter, we received food aid every week. It’s now been maybe three months since we last received food aid.”

“Marwa”, Gaza, 4 April⁸⁶

Displaced Palestinians in Gaza are seeking refuge in overcrowded and inadequate shelters, often on any open land available, or damaged or evacuated buildings including schools or hospitals. Due to the intensified hostilities and hampering of humanitarian aid, there is severe shortage of tents, shelter items and non-food items for distribution to the displaced, especially the newly arrived from Rafah.⁸⁷ All of the 13 Palestinians in Gaza that spoke with CIHRS stated that their shelters were overcrowded and lacked the necessary infrastructure, with around 6 to 9 families in one small room, with each family having 5 to 10 individuals. Some rooms are so overcrowded that the husbands do not sleep in the rooms, but rather sleep in tents placed in the school yard to make space.

⁸⁵ Phone Interview with “Aya”, Gaza, 17 April 2024 (Name has been changed to respect the interviewee’s anonymity)

⁸⁶ Phone Interview with “Marwa”, Gaza, 4 April 2024. (Name has been changed to respect the interviewee’s anonymity)

⁸⁷ OCHA, Flash Update #168 <https://t.ly/R2waA>

The living conditions and particularly access to water and sanitation facilities in the shelters have increased infectious illnesses among Palestinians in Gaza.⁸⁸ One of the interviewees shared that the water in the bathrooms at their shelter at the school in Deir al Balah only comes one hour per day, which makes it difficult to keep clean, wash clothes or dishes and generally maintain minimum levels of hygiene.⁸⁹ Others shared that bathroom lines were so long that they were sometimes only able to use the bathroom once. An interviewee staying at an informal shelter with her newborn in Deir al Balah shared that their tent is surrounded by flies and trash with no sanitation system in place, adding that it is likely the reason for their rash and insect bites.⁹⁰ Another interviewee, pregnant at the time, described her shelter at Malaab Al Shaheed Mohammad al Durrah, in Deir al Balah, as

“tents on artificial grass which doesn't absorb the water. There was a lot of rain, and the water got on the mattresses and the blankets. The place is full of trash and sewers and there's no water and no electricity.”

“Aya”, Gaza, 17 April⁹¹

4.3 Impact of the situation on pregnant, breastfeeding women and children

Pregnant and breastfeeding women and their newborns are particularly vulnerable to the conditions of life inflicted on Gaza, especially in light of limited or nonexistent adequate shelter, health care and food accessibility. As of 16 May, an estimated 150,000 pregnant and breastfeeding women continue to face unsanitary conditions and health risks.⁹²

The psychological toll of the hostilities exacerbated by the living conditions these women are under has also contributed to miscarriages, stillbirths, and premature

⁸⁸ OCHA, Flash Update #165, <https://t.ly/jbkf6>

⁸⁹ Phone Interview with “Sarah”.

⁹⁰ Phone Interview with “Rim”, Gaza, 2 May 2024 (Name has been changed to respect the interviewee's anonymity).

⁹¹ Phone Interview with “Aya”, Gaza, 17 April 2024 (Name has been changed to respect the interviewee's anonymity).

⁹² “Gaza: 600,000 displaced from Rafah”, UN News, 15 May 2024, <https://news.un.org/en/story/2024/05/1149756>

births.⁹³ In April, UNFPA warned that 15,000 pregnant women were at risk of imminent famine with 95 percent of pregnant and breastfeeding women lacking sufficient micronutrient intake.⁹⁴

Speaking to CIHRS, one interviewee shared that after 12 years of trying to get pregnant, she eventually got pregnant through IVF and gave birth in April 2024. Recalling the day she gave birth at Al-Awda Hospital, Northern Gaza, she says:

“I went into labor and my happiness to finally see my daughter after all these years took over me. I stayed the night at the hospital, and the vicinity was being attacked throughout the night, I just wanted to get out of this place. The same day I got out, they attacked the hospital.”

“Rim”, Gaza, 2 May⁹⁵

The health of the mothers, in addition to lack of access to clean water, limited health services and poor nutrition have also affected the newborns. As of 8 May, over 5,000 children aged 6 to 59 months have been diagnosed with acute malnutrition.⁹⁶ In Northern Gaza alone, over 31 percent of children under two years old suffer from acute malnutrition.⁹⁷ The closure of all but three maternity hospitals have placed immense strain on medical facilities, especially in terms of equipment, supplies, fuel, medication, and staff.⁹⁸

All eight pregnant women who spoke with CIHRS shared that they have been unable to get the necessary vitamins and/or pregnancy vaccinations, or see a doctor, or conduct the necessary check-ups throughout their pregnancy after 7 October. Their diet could not provide the necessary nutrition either, as they mainly relied on canned foods received as food assistance at their shelter.

⁹³ Women and newborns bearing the brunt of the conflict in Gaza, <https://www.who.int/news/item/03-11-2023-women-and-newborns-bearing-the-brunt-of-the-conflict-in-gaza-un-agencies-warn>

⁹⁴ UNFPA, Situation Report 01 March-01 April, <https://arabstates.unfpa.org/sites/default/files/pub-pdf/unfpa-situation-report-7-v4.pdf>

⁹⁵ Phone Interview with “Rim”, Gaza, 2 May 2024. (Name has been changed to respect the interviewee’s anonymity)

⁹⁶ OCHA, Flash Update #165, <https://t.ly/jb6f6>

⁹⁷ OCHA, Hostilities in the Gaza Strip and Israel - reported impact | Day 227, 20 May 2024, <https://t.ly/uatvU>

⁹⁸ UNFPA, Situation Report 01 March-01 April <https://arabstates.unfpa.org/sites/default/files/pub-pdf/unfpa-situation-report-7-v4.pdf>

“The last time I saw a doctor, I was 5 months pregnant, I went to check on the state of the fetus after the displacement. When I gave birth, there was no anesthesia and I had low-iron and jaundice. I still suffer from giving birth until now.”

“Sarah”, Gaza, 30 April.⁹⁹

Another woman, recalling the stress and fear she endured during her forced displacement journey while pregnant, as she left North Gaza seeking refuge in Nuseirat, Central Gaza, on foot for three hours and in heat, while she was five months pregnant, said

“I couldn’t see any doctors to check on the baby. After long hours of walking during migration, I didn’t know if the baby was alive or not. Every two days I would feel him move once, and I would be so scared. We asked around, and there weren’t any doctors nearby.”

“Amal”, Gaza, 18 April¹⁰⁰

A pregnant woman shared a similar experience with regards to access to health care.¹⁰¹ Recalling an Israeli attack on her shelter at Al Shati’ school in North Gaza, she says:

“The building’s stones collapsed and I fell from the fourth floor. I was still at the early stages of my pregnancy and I had to walk a long distance to find a safe place. After that, I went to the doctor for an ultrasound scan because I felt something wasn’t right but the doctor said you can’t do an ultrasound there’s no electricity, and I can’t use the generator because there are a lot of other pregnant women, I can’t use it for some but not others.”

“Marwa”, Gaza, 4 April

⁹⁹ Phone Interview with “Sarah”, Gaza, 30 April. (Name has been changed to respect the interviewee’s anonymity)

¹⁰⁰ Phone Interview with “Amal”, Gaza, 18 April 2024. (Name has been changed to respect the interviewee’s anonymity)

¹⁰¹ Phone Interview with “Marwa”, Gaza, 4 April 2024. (Name has been changed to respect the interviewee’s anonymity)

Due in five days at the time of the interview, she shared her fears:

“I will give birth in days, and I have no plan, I don't even know what to do. They say there is a hospital, but how do I get there? Will there be an ambulance? Will it even come? There are no cars, no nearby hospitals. This is my first experience [giving birth], I would be scared even if I were back at my home. This place is not suitable. I haven't even gotten anything for the newborn. There are no doctors, no anesthesia, no painkillers.”

“Marwa”, Gaza, 4 April

All six women who gave birth after 7 October and spoke to CIHRS shared that the hospitals they were at did not have any anesthesia or painkillers, and that they were unable to produce natural milk for breastfeeding or that they could not produce sufficient milk, forcing them to purchase milk, often relying on loans from relatives. All of these women stated they did not receive any aid in relation to their pregnancy or newborn.

5. Genocidal intent

Determining whether genocide has occurred requires more than just the commission of genocidal acts, the scale of the attacks or the number of victims, it also requires establishing the perpetrators' intent to destroy a particular group.

The international definition of genocide, which has remained constant since the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide in 1948, refers to a set of acts committed 'with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such'. International jurisprudence has established specific criteria to interpret the perpetrators' state of mind and analyze their motives and determine this intent. Courts have inferred this intent from direct evidence such as the existence of a general plan or a policy of genocide,¹⁰² official documents or statements by high-level officials,¹⁰³ as well as by interpreting circumstantial evidence which is subject to the court's discretion and depends on the facts and circumstances of the case.¹⁰⁴

The ICTY has outlined various criteria that may be used as evidence of genocidal intent. This includes the overall context, the scale of atrocities, the systematic targeting of victims because of their membership in a particular group or derogatory language towards the targeted group.¹⁰⁵ The ICC Trial Chamber agreed to infer this genocidal intent from circumstantial evidence, but only when "no other plausible conclusion could be drawn from the facts".¹⁰⁶ The ICJ considered that to infer genocidal intent from a pattern of conduct, it must be the only reasonable conclusion drawn from the acts in question.¹⁰⁷ In the situation of Gaza, there is extensive direct and circumstantial evidence of Israel's intent to destroy Palestinians in Gaza. **On 20 May, the ICC Prosecutor's Office had found that Israel's acts in Gaza were part of a common plan to use starvation as a method of war and other acts of violence against Palestinians in Gaza.**¹⁰⁸

¹⁰² Prosecutor v. Radislav Krstic (IT-98-33-A), ICTY (2004) <https://www.icty.org/x/cases/krstic/acjug/en/>

¹⁰³ UN Doc. A/HRC/55/73, <https://www.ohchr.org/en/documents/country-reports/ahrc5573-report-special-rapporteur-situation-human-rights-palestinian>

¹⁰⁴ A. Guellali, Legal Challenges to Describing Israeli Crimes in Gaza as Genocide, p 5, doi.org/10.53833/QAQQ1356

¹⁰⁵ Prosecutor v. Goran Jelisić (IT-95-10-A), ICTY (2001), <https://cld.irmct.org/assets/filings/Judgement-Jelisc.pdf>

¹⁰⁶ Prosecutor v. Omar Hassan Ahmad Al Bashir (ICC-02/05-01/09), ICC (2009), https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2010_00810.PDF.

¹⁰⁷ Bosnia and Herzegovina v. Serbia and Montenegro, ICJ Judgment (2007), <https://www.icj-cij.org/sites/default/files/case-related/91/091-20070226-JUD-01-00-EN.pdf>

¹⁰⁸ Statement of ICC Prosecutor Karim, 20 May 2024, <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-applications-arrest-warrants-situation-state>

5.1 Direct official statements

High-level Israeli commanders and officials have conveyed genocidal intent through dehumanizing rhetoric against Palestinians, used with impunity.¹⁰⁹ On 9 October 2023, the Israeli Minister of Defense, Yoav Gallant, stated that Israel was “*imposing a complete siege on Gaza. No electricity, no food, no water, no fuel. Everything is closed. We are fighting human animals, and we are acting accordingly.*”¹¹⁰ On 7 October 2023, Deputy Speaker of the Knesset and Member of the Foreign Affairs and Security Committee, Nissam Vaturi spoke of a “common goal” of “erasing the Gaza Strip from the face of the earth”.¹¹¹ This type of rhetoric has continued since then, with no accountability, reflecting the state of mind of the Israeli decision and policy makers, despite increasing international efforts from other states, including Israel’s allies, or the ICJ proceedings.

5.2 Circumstances: Level of destruction

Since October, Israel has obliterated entire neighborhoods and vital infrastructure and services, using more than 45,000 bombs in the first three months.¹¹² Israel has fully or partially destroyed more than 60 percent of Gaza’s residential buildings, and damaged more than 155 health facilities, 171 UNRWA installations and 130 ambulances,¹¹³ indicating disproportionate use of force and killing. By 31 May 2024, Israeli forces had killed 36,284 Palestinians, of which 32 percent were children and 20 percent were women, with an estimated more than 10,000 bodies still under the rubble, as well as 82,057 injured,¹¹⁴ This death toll does not include those who have died due to lack of medicines or life-saving medical treatments.¹¹⁵ Thousands of these people were killed in their homes, during their forced displacement, or even in designated safe areas or IDP camps which continue to be attacked on a daily

¹⁰⁹ Law for Palestine Releases Database with 500+ Instances of Israeli Incitement to Genocide – Continuously Updated, <https://law4palestine.org/law-for-palestine-releases-database-with-500-instances-of-israeli-incitement-to-genocide-continuously-updated/>

¹¹⁰ Ibid, cell #17.

¹¹¹ Nissam Vaturi, “Now we all have one common goal - erasing the Gaza Strip from the face of the earth. Those who are unable will be replaced”, X, 7 October 2023, Last access: 31 May 2024, <https://twitter.com/nissimv/status/1710694866009596169>

¹¹² OCHA, Flash Update #72, <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-72>

¹¹³ Hostilities in the Gaza Strip and Israel - reported impact | Day 227, <https://t.ly/uatvU>

¹¹⁴ Hostilities in the Gaza Strip and Israel | Flash Update #173, <https://t.ly/KhX4G>

¹¹⁵ Occupied Palestinian Territory and Israel Crisis Accountability Report - April 2024, <https://www.oxfam.org/en/research/oxfam-6-month-accountability-report-occupied-palestinian-territory-and-israel-crisis>

basis.¹¹⁶ In May 2024 alone, Israel has attacked at least seven IDP camps, notably more than nine attacks on Al Jabalya in Northern Gaza, killing at least 67 people and six attacks on Al Nuseirat camp in central Gaza, killing 70 people.¹¹⁷ On 26 May, Israel attacked a camp sheltering displaced civilians in Tal al-Sultan, Rafah, killing at least 46 people including 23 women, children and older persons. Hundreds of people were treated for severe burns.¹¹⁸ Just two days later, on 28 May, an airstrike on an IDP site in Al Mawasi, the Israeli determined ‘safe zone’ killed at least 21 people, including 12 women, and injured more than 64 people.¹¹⁹

This level of destruction has not only hindered civilian access to vital supplies and health care services, but has continued even during refuge and ensured that people are not safe anywhere at any time. Doctors, nurses, aid workers and journalists have been killed in large numbers. As of 20 May, over 224 humanitarian workers, 493 health workers, and 147 journalists have been killed in Gaza.¹²⁰ The combination of these attacks with the obstruction of aid delivery and closure of border crossings, to the point that Palestinians are left to starve, with limited access to life-saving medical services, food and safe shelters, in addition to the high civilian casualties, especially those of women and children, indicate Israel’s intention to destroy the Palestinian people as a group.

The attacks on Gaza since 7 October should be considered within the historical context of Palestine and Israel’s military occupation along with its systematic violations against Palestinians, including Israel’s repeated widespread and systematic acts of displacement, discrimination, settlement of its population onto occupied territories, house demolitions, land confiscation, discrimination, and segregation.

¹¹⁶ Incidents of threats and violence in refugee camps (April 2024), 30 April 2024 <https://reliefweb.int/report/occupied-palestinian-territory/protection-danger-occupied-palestinian-territories-opt-incidents-threats-and-violence-refugee-camps-april-2024>

¹¹⁷ OCHA, Flash updates OCHA #161 - #170.

¹¹⁸ OHCHR, UN experts outraged by Israeli strikes on civilians sheltering in Rafah camps, Press Release, 29 May 2024, <https://www.ohchr.org/en/press-releases/2024/05/un-experts-outraged-israeli-strikes-civilians-sheltering-rafah-camps>

¹¹⁹ “What’s happening in Rafah?”, MSF, 30 May 2024, <https://reliefweb.int/report/occupied-palestinian-territory/whats-happening-rafah>

¹²⁰ Hostilities in the Gaza Strip and Israel - reported impact | Day 227, <https://t.ly/uatvU>

When considering this context with the scale and level of atrocities in Gaza since 7 October, the blocking of humanitarian aid may further indicate the genocidal nature of the attacks on Gaza.¹²¹

¹²¹ Prosecutor v. Goran Jelisić (IT-95-10A), ICTY (2001) para 47 <https://cld.irmct.org/assets/filings/Judgement-Jelisc.pdf>

6. Recommendations

Gaza requires the urgent adoption of an immediate and permanent ceasefire in Gaza, and prompt expansion of humanitarian aid provision to ensure that the basic needs of Palestinians in Gaza are met. Israel should comply with its obligations under international humanitarian law and human rights law, and the ICJ orders to:

- **Immediately halt its military operation in Rafah**
- **Open land crossings in Gaza and allow swift aid delivery and humanitarian access into Gaza.**

Responsibility for the failure to protect Palestinians in Gaza from further violence falls not only on Israel, but also on the states that continue to provide it with the political or financial backing that has enabled it to carry out these violations that meet the threshold of genocide. The international community must act now, not only to pressure for an immediate and permanent ceasefire but to also uphold its role in seeking to prevent what the ICJ has qualified as plausibly genocide. Israel's allies must end their contributions to Israel's war crimes by withholding financial assistance and arms supplies to Israel, or risk being found liable for the crime of complicity in genocide. Arab states have notably failed to exercise efforts to hold Israel accountable. Arab states in particular should present an effective plan to establish and maintain a ceasefire, and to meet the humanitarian and security needs of the Palestinians.

Many serious crimes have been committed in southern Israel by Hamas and other Palestinian groups on October 7, including the continued holding of civilian hostages, and by Israel in Gaza and the West Bank thereafter. Those responsible for serious international crimes must be identified and held accountable. In order for that to happen, full access to the Gaza Strip and other affected areas must be provided to independent international investigatory mechanisms, including the Independent, International Commission of Inquiry to Investigate, in the Occupied Palestinian Territory, including East Jerusalem, and in Israel; the prosecutor's office of the ICC,

and other similar mechanisms that may be mandated to establish the factual record of the actions of all parties that have facilitated or committed grave international crimes since 7 October, 2023, plausibly including the crime of genocide.