



## HUMANITARIAN CAMOUFLAGE

ISRAEL REWRITES THE LAWS OF WAR  
TO LEGITIMIZE GENOCIDE IN GAZA

LUIGI DANIELE, NICOLA PERUGINI, FRANCESCA ALBANESE

The Institute for Palestine Studies-USA is an independent 501(c)3 public charity dedicated to the documentation, preservation, and knowledge production on Palestinian Affairs. IPS-USA raises public awareness, informs policy, and engages with various constituencies on significant issues related to Palestine in the US and in the Middle East. IPS-USA is a sister organization of the larger IPS, founded in 1963 and headquartered in Beirut, Lebanon with an office also in Ramallah, Palestine.

CURRENT ISSUES IN DEPTH is a series from the Institute for Palestine Studies USA, which provides history, background, and analysis on pressing topics and events.

The views expressed in the publication "Current Issues in Depth" are solely those of the respective authors. They do not necessarily reflect the views of the Institute for Palestine Studies or its board. The Institute for Palestine Studies provides a platform for diverse perspectives on topics related to Palestine and the broader Middle East region, with the aim of fostering informed debate and understanding.

#### **COVER PHOTO**

RAFAH, GAZA - MAY 06: Israeli army warns Palestinians to evacuate Rafah with brochures prior to the army's land assault, urging them to head west in Rafah, Gaza on May 06, 2024.

ABED RAHIM KHATIB/ANADOLU via Getty Images



Copyright © 2024 by the Institute for Palestine Studies

All rights reserved. Published 2024.  
Printed in the United States of America  
Published by the Institute for Palestine Studies, Washington, DC

2024 | ISSUE No. 12

CURRENT ISSUES **IN DEPTH**

# HUMANITARIAN CAMOUFLAGE

ISRAEL REWRITES THE LAWS OF WAR  
TO LEGITIMIZE GENOCIDE IN GAZA

LUIGI DANIELE, NICOLA PERUGINI, FRANCESCA ALBANESE

## ABOUT THE AUTHORS

Dr. Luigi Daniele teaches and researches international humanitarian law and international criminal law at Nottingham Law School (NTU). His research focuses on the law of targeting, war crimes law, and the proposed crime of ecocide. His latest contributions concerned the misuses of the notion of 'collateral damage', the crisis and changing landscape of genocide studies (with R. Segal), and the war crimes of destruction and appropriation of property not justified by military necessity. He is author of the forthcoming *Indiscriminate and Disproportionate Attacks in International Law: Bridging the Accountability Gap* (Hart Publishing, 2025).

Nicola Perugini teaches at the department of Politics and International Relations at the University of Edinburgh. His research revolves around the politics of human rights and international law, and the ethics of violence, with special focus on Palestine. He is the co-author of *The Human Right to Dominate* (Oxford University Press 2015) and *Human Shields. A History of People in the Line of Fire* (University of California Press 2020). His current research explores the role of civilians in anti-colonial national liberation wars. Nicola publishes regularly in several media outlets and blogs.

Francesca Albanese is the United Nations Special Rapporteur on the occupied Palestinian territories. She is an Affiliate Scholar at the Institute for the Study of International Migration at Georgetown University, and a Senior Advisor on Migration and Forced Displacement for the think tank Arab Renaissance for Democracy and Development (ARDD), where she co-founded the Global Network on the Question of Palestine (GNQP), a coalition of renowned professional and scholars engaged in/on Israel/Palestine. She has published widely on the legal situation in Israel/Palestine; her latest book, *Palestine Refugees in International Law* (Oxford University Press, 2020), offers a comprehensive legal analysis of the situation of Palestinian refugees from its origins to modern-day reality. She regularly teaches and lectures on International Law and Forced Displacement in European and Arab universities, and speaks frequently at conferences and public events on the legal situation of Palestine. She worked for a decade as a human rights expert for the United Nations, including the Office of the High Commissioner for Human Rights and the Relief and Work Agency for Palestine Refugees. In these capacities, she advised the UN, governments, and civil society across the Middle East, North Africa, and the Asia Pacific, on the enforcement of human rights norms, especially for vulnerable groups including refugees and migrants. She holds a Law Degree (with honors) from the University of Pisa and an LLM in Human Rights from the University of London, SOAS.

## ACKNOWLEDGMENTS

The authors would like to acknowledge equal contribution to this article. The article expands and further articulates the arguments and theorization of the concept of "humanitarian camouflage" developed in UN Human Rights Council, 'Anatomy of a Genocide - Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese' (2024) UN Doc A/HRC/55/73. Nicola Perugini and Luigi Daniele have contributed to the development of this concept in the capacity of academic advisors to the Special Rapporteur's mandate.

# HUMANITARIAN CAMOUFLAGE

ISRAEL REWRITES THE LAWS OF WAR TO LEGITIMIZE  
GENOCIDE IN GAZA

*Luigi Daniele, Nicola Perugini, Francesca Albanese*

# HUMANITARIAN CAMOUFLAGE: ISRAEL REWRITES THE LAWS OF WAR TO LEGITIMIZE GENOCIDE IN GAZA

GENOCIDE, AS THE DENIAL of the right of a people to exist and the subsequent attempt or success in annihilating them, entails various modes of elimination. Raphael Lemkin, the Polish-Jewish jurist who coined the concept of genocide after World War II, observed that genocides are “a composite of different acts of persecution or destruction,”<sup>1</sup> ranging from physical elimination to the “forced disintegration” of a people’s political and social institutions, culture, language, national sentiments, and religion.<sup>2</sup> Genocides, as practices of elimination of peoples in history, are always multifaceted processes, not single acts.<sup>3</sup> Extermination is only one among many stages that can coexist with other annihilatory techniques, functionally converging toward the eliminationist purpose constituting the defining feature of the international crime of genocide in contemporary international law.<sup>4</sup>

Genocide processes are integral to the historical dynamics of settler colonialism,<sup>5</sup> as the experience of Native Americans in the U.S., First Nations in Australia, or Herero and Nama peoples in Namibia illustrates. As settler colonialism aims to acquire Indigenous land and resources, the mere existence of Indigenous peoples, of their collective life remaining and thriving in their land, poses an existential threat to the settler society.<sup>6</sup> Destruction and replacement of Indigenous people become therefore construed as ‘unavoidable’ or rationalized as driven by the pursuit of ‘security,’ before being perpetrated through different methods. These include removal (forcible transfer, ethnic cleansing), movement restrictions (segregation, large-scale carceralization), mass killings (murder, disease, starvation), assimilation (cultural erasure, child removal) and birth prevention.<sup>7</sup> Settler colonialism is a structural process, and a dynamic confluence of acts aimed at displacing and eliminating Indigenous groups, of which genocidal extermination represents the peak.<sup>8</sup>

---

1 Raphael Lemkin, *Axis Rule in Occupied Europe*. (The Lawbook Exchange, 2008), p. 92.

2 *Id.*, p. 79.

3 Enny Green, Thomas MacManus and Alicia de la Cour Venning, *Countdown to Annihilation: Genocide in Myanmar* (International State Crime Initiative, 2015).

4 Convention on the Prevention and Punishment of the Crime of Genocide 1948, p. 277.

5 Alexander Laban Hinton, “The Dark Side of Modernity: Toward an Anthropology of Genocide,” in *Annihilating Difference: The Anthropology of Genocide*, ed. Alexander Laban Hinton (University of California Press, 2002), pp. 1–40.

6 Lorenzo Veracini, “Settler Collective, Founding Violence and Disavowal: The Settler Colonial Situation,” *Journal of Intercultural Studies* 29, no. 4 (2008): 369.

7 Patrick Wolfe, “Settler colonialism and the elimination of the native,” *Journal of Genocide Research*, 8, no. 4 (2006): 402.

8 Raphael Lemkin, *Axis Rule in Occupied Europe*. (The Lawbook Exchange, 2008), p. 92; Pauline Wakeham, “The Slow Violence of Settler Colonialism,” *Journal of Genocide Research* 24, no. 3. (2022): 340–346.



Palestinians have been, since the Nakba, subject to a process of settler colonial erasure presenting many of the same features.<sup>9</sup> The Nakba, the birth of Israel, and the history of the notion of genocide are intertwined in a Gordian knot which has marked the emergence of the contemporary international order. With a foundational exceptionalism shielding Israel from accountability for seven decades,<sup>10</sup> the Nakba was perpetrated precisely while the Genocide Convention was being codified. In Palestine, displacing and erasing the Indigenous Arab presence has been an inevitable part of forming Israel as a 'Jewish state.'<sup>11</sup> In 1940, Joseph Weitz, head of the Jewish Colonization Department stated: "there is no room for both peoples, together in this country. The only solution is Palestine without Arabs. And there is no other way but to transfer all of them: not one village, not one tribe should be left."<sup>12</sup> Practices leading to the mass ethnic cleansing of Palestine's non-Jewish population occurred in 1947–1949, and again in 1967, when Israel occupied the West Bank, East Jerusalem, and the Gaza Strip, resulting in the mass displacement of hundreds of thousands, killings, destruction of villages and towns, and the denial of the right to return for expelled Palestinians.

Since 1967, doubling on the foundational exceptionalism of 1948, and in contrast to the process of decolonization and the progressive consolidation of self-determination as an inalienable right of peoples in the international legal system,<sup>13</sup> subsequent Israeli governments have expanded their settler colonial agenda in what remained of historical Palestine (Gaza Strip and West Bank, including East Jerusalem), increasingly stripping the Palestinian people of their right to exist as a national group. This has resulted in the segregation and control of Palestinians, including through land confiscation, house demolitions, revoked residencies, arbitrary deprivation of liberty of high numbers of Palestinians, including children and teens, and deportation. Punishing their indigeneity and rejection of colonization, Israel has construed Palestinians of all ages as a 'security threat,' oppressing them in the most brutal and systematic ways and subjecting them to various degrees of 'de-civilianization,' namely the denial and stripping of their protections as civilians.<sup>14</sup> In this process, Gaza has come to constitute an advanced laboratory of the most violent articulations of these discourses and practices.<sup>15</sup>

The ongoing genocide can be seen as a genocide foretold, as it has been long in the making. Israel has progressively turned Gaza into a highly controlled and coerced enclave, a ghetto allowed to exist within the boundaries of de-development, confinement, recurring cycles of mass killing of civilians. The last two decades have marked the acceleration of the process of constituting Palestinians in Gaza as a

9 Fayez Sayegh, *Zionist Colonialism in Palestine* (Beirut: Research Center, Palestine Liberation Organization, 1965).

10 Raz Segal and Luigi Daniele, "Gaza as Twilight of Israel Exceptionalism: Holocaust and Genocide Studies from Unprecedented Crisis to Unprecedented Change" *Journal of Genocide Research* 26, no. 4 (2024): 1-10.

11 Rashid Khalidi, *The Hundred Years' War on Palestine* (Metropolitan Books, 2020).

12 Cited in Uri Davis, "Palestine into Israel" *Journal of Palestine Studies* 3, no. 1 (1973): 89.

13 See Antonio Cassese, *Self-Determination of Peoples: A Legal Reappraisal* (Cambridge University Press, 1995); James Crawford, *The Creation of States in International Law* (2d edition, Oxford: Clarendon Press, 2006).

14 UN Human Rights Council, "Human rights situation in the Occupied Palestinian Territory, including East Jerusalem, and the obligation to ensure accountability and justice" (2024) UN Doc A/HRC/55/28, para 55-92.

15 Luigi Daniele, "Incidentalities of the civilian harm in international humanitarian law and its Contra Legem anonyms in recent discourses on the laws of war" *Journal of Conflict and Security Law* 29, no. 1 (2024): 21–54.

“surplus population,” administered through a political economic rationale that created the conditions for the ongoing war of annihilation.<sup>16</sup> Since the 2005 evacuation of Israeli settlers (which Israel’s current Prime Minister Benjamin Netanyahu strongly opposed), Israel’s settler movement and leaders have framed Gaza as a territory to be “re-colonized” and its population as invaders to be expelled.<sup>17</sup> These unlawful claims are integral to the project of consolidating the “exclusive and unquestionable right of the Jewish people over all areas of the Land of Israel,” as reaffirmed by Prime Minister Netanyahu in his government’s plan in December 2022.<sup>18</sup> This is the *longue durée* of Israel’s intentional practices of erasure of Palestine and elimination of Palestinians since the Nakba. It is against this historical background of settler colonial dispossession that the atrocities in Gaza have unfolded since October 2023: what we could call the settler colonial conditions of the ongoing genocide.

However, despite the similarities with other genocides perpetrated in settler-colonial contexts, what is unprecedented in Gaza, and what constitutes the main focus of this article, is the appropriation and distortion of international humanitarian law (IHL) to justify and vindicate as lawful the multiple practices of annihilation carried out by Israel in the Strip. Earlier settler-colonial genocides did not resort to the articulation of a legal discourse aimed at legitimizing their practices of elimination through the humanitarian norms inscribed in the laws of war, which fully developed after World War II and more comprehensively after the decolonization process. Instead, Israel resorted to the humanitarian law discourse since the inception of this war. This became more apparent on the occasion of the first mass expulsion order of October 13, 2023, when 1.1 million Palestinians were ordered to evacuate northern Gaza in 24 hours to Israeli-designated “safe zones” in the south of the Strip. When it announced its order, the Israeli army immediately couched it as a measure of civilian protection: “Civilians of Gaza City, evacuate south for your own safety and the safety of your families and distance yourself from Hamas terrorists who are using you as human shields.”<sup>19</sup> The order inaugurated the first instance of a camouflage of acts aimed at destroying the Palestinian group in Gaza. This included both mass killing and mass expulsion, presented by Israel (and some scholars) as international humanitarian law-abiding efforts aimed at ‘minimizing’ civilian harm.<sup>20</sup>

---

16 Ntina Tzouvala, “Genocide and political economy: reconstructing the relationship” LPE Project, 2024 <https://lpeproject.org/blog/genocide-and-political-economy-reconstructing-the-relationship/> (all URL hereinafter last accessed 30 July 2024).

17 Nicola Perugini, “Settler-Colonial Inversions: Israel’s ‘disengagement’ and the Gush Katif ‘Museum of Expulsion’ in Jerusalem” *Settler-Colonial Studies* 19, no. 1 (2019): 44-45; MK Bezalel Smotrich, “Israel’s Decisive Plan,” *Hashiloach*, 2018, <https://hashiloach.org.il/israels-decisive-plan/>; Jerusalem Post Staff, “Otzma candidate Ben-Gvir calls for return to Gush Katif,” *Jerusalem Post*, 2019, <https://www.jpost.com/israel-news/otzma-candidate-ben-gvir-calls-to-return-to-gush-katif-584665>.

18 Dan Williams, “Israel’s Netanyahu returns with hard-right cabinet set to expand settlements” *Reuters*, 2022, <https://www.reuters.com/world/middle-east/netanyahu-set-retake-power-head-far-right-government-2022-12-29/>.

19 Israel Defense Force, “IDF Announcement to sent to the Civilians of Gaza City” IDF, 2023, <https://www.idf.il/en/mini-sites/idf-press-releases-regarding-the-hamas-israel-war/october-23-pr/idf-announcement-sent-to-the-civilians-of-gaza-city/>.

20 See Michael N. Schmitt, “Israel-Hamas 2023 Symposium – The Evacuation of Northern Gaza: Practical and Legal Aspects,” *Lieber Institute*, 2023, <https://lieber.westpoint.edu/evacuation-northern-gaza-practical-legal-aspects/>. Contra, see Yousuf Syed Khan, “The Directive to Evacuate Northern Gaza: Advance Warning or Forced Displacement?” *Just Security*, 2023, <https://www.justsecurity.org/89617/the-directive-to-evacuate-northern-gaza-advance-warning-or-forced-displacement/>.



The misuse of humanitarian law—part of a longer historical process of colonial use of legal categorizations at the service of violence against the colonized<sup>21</sup>—to justify forced displacement, wanton destruction of cities, and mass killing of Palestinian civilians has been stretched to unparalleled extents and reached unprecedented depths in the last twelve months. However, it is not in itself a new mechanism, and its genocidal use has been long in the making. Regularly, in the last 20 years, the mass victimization of Palestinian civilians has been accompanied by the production of justificatory legal discourses aimed at eroding non-combatant protections to legitimize the systematic use of lethal violence against them, justified both by the Israeli military and some international legal experts.<sup>22</sup> These discourses systematically presented the killing of Palestinian civilians as negligible, collateral, and ‘proportionate,’ accurately limited, carefully authorized by a highly professional army, extremely well-trained on its legal responsibilities, and allegedly restraining itself to spare civilians “above and beyond” the limits imposed by the law.<sup>23</sup> Whenever Palestinian civilians were killed in scores, a plethora of experts were ready to shift the blame on Palestinian armed groups, accusing them of “lawfare;” forcing Israel to violate the laws of war in order to blame it in the international arena.<sup>24</sup>

What is unprecedented in this genocide, however, is that concepts borrowed from the laws of war have been definitively eviscerated of their meaning and protective purposes to legitimize annihilatory violence against Palestine as a nation and against Palestinians as a group. Such concepts have been re-functionalized to justify an eliminationist conduct of hostilities, reaching an apex whereby IHL notions, radically distorted, morphed into words encoding Israel’s genocidal means and methods of warfare.

The article analyzes the components of this *humanitarian camouflage*, unveiling how it has been deployed by Israel as a legal-political strategy in the service of a war of total annihilation. We start by examining how, since October 7, Israel has justified its genocidal campaign in Gaza using two registers: on one hand, a brutal register of dehumanization of the Palestinian population of Gaza, construed as a terrorist population to be eliminated; on the other hand—and simultaneously—a liberal register to legitimize its eliminationist violence in the face of its international allies’ audience, disguising it as compliance with IHL.

21 Shahid Hammouri, “When the negation of critique becomes bloody business: to be an international lawyer in times of genocide,” in Tor Krever et al., “On international law and Gaza: critical reflections,” *London Review of International Law* 12, no. 2 (2024), <https://academic.oup.com/lril/advance-article/doi/10.1093/lril/lrae012/7723668>.

22 Noura Erakat, *Justice for Some Law and the Question of Palestine* (Stanford University Press, 2019); Neve Gordon and Nicola Perugini, *Human Shields: A History of People in the Line of Fire* (University of California Press, 2020); Craig Jones, *The War Lawyers: The United States, Israel, and Juridical Warfare* (Oxford University Press, 2021); Eyal Weizman, *The Least of All Possible Evils: Humanitarian Violence from Arendt to Gaza*. (Verso, 2011).

23 Michael N. Schmitt and John J. Merriam, “The Tyranny of Context: Israeli Targeting Practices in Legal Perspective,” *University of Pennsylvania Journal of International Law* 37, no. 1 (2015): 139; Contra, see Luigi Daniele, “Incidentalness of the civilian harm in international humanitarian law and its *Contra Legem* antonyms in recent discourses on the laws of war,” *Journal of Conflict and Security Law* 29, no. 1 (2024): 21–54.

24 Charles J. Dunlap Jr., “Lawfare: A Decisive Element of 21st-Century Conflicts?” *Joint Force Quarterly* 54, no. 3 (2009): 34-39; Charles J. Dunlap, Jr., “Has Hamas Overplayed Its Lawfare Strategy?” *Just Security*, 2014, <https://www.justsecurity.org/13781/charles-dunlap-lawfare-hamas-gaza/>; Nicola Perugini and Neve Gordon, “Medical Lawfare: The Nakba and Israel’s Attacks on Palestinian Healthcare” *Journal of Palestine Studies* 53, no 1 (2024): 73-74.

**“Genocides, as practices of elimination of peoples in history, are always multifaceted processes, not single acts. Extermination is only one among many stages that can coexist with other annihilatory techniques, functionally converging toward the eliminationist purpose constituting the defining feature of the international crime of genocide in contemporary international law.”**

---

“in whole or in part.” The article concludes by arguing that the settler-colonial genocidal war against Gaza, and Israel’s marshalling of international humanitarian law to legitimize it, ultimately shows that the international order has reached a tipping point whereby political acquiescence towards Israel and its legitimization as an international law-abiding state eviscerates the key legal tools the international community has developed to prevent international crimes. If tolerated, condoned, and unpunished, this process may inaugurate a new era of mass atrocities against protected groups in the Global South, in which big powers will be able to portray genocides as ‘incidental’ and ‘proportionate’ means to achieve their war aims.

We then expand the analysis of the second register, showing how the Israeli military, mimicking IHL language, has construed the entirety of the built-up areas of Gaza as a continuum of alleged military objectives, reclaiming the ‘right’ to ‘lawfully’ raze houses, schools, mosques, churches, hospitals, entire neighborhoods, and entire cities to the ground, including the infrastructures indispensable for the survival of the civilian population, rendering the living space of the victim group unlivable. Subsequently, we examine how lethal distortions of the IHL concept of proportionality and collateral damage have been functional in construing entire masses of civilians as killable surroundings of military objectives with a diminished, or non-existent, right to life.

The analysis continues by showing how an array of IHL concepts like safe zones, evacuations, human shields, and “hospital shields” have been mobilized by Israel as technologies of settler-colonial displacement and genocide, creating conditions of life leading to the destruction of Gaza’s Palestinians

## Between Genocide and IHL: Humanitarian Camouflage

The principle of distinction constitutes the backbone of the laws of war. The basic IHL rule is absolute and does not tolerate derogations: parties to conflicts must always distinguish, to the maximum extent feasible, between combatants and civilians, and between military objectives and civilian objects.<sup>25</sup> Directing attacks against the latter is universally prohibited and is a crime of ‘concern of the international community as a whole.’<sup>26</sup> The institutionalization of this norm is the result of hundreds of years of development of the laws of war, reflecting the Enlightenment’s understanding of war as conflict between state governments and their professionalized armies, not between populations. Since the late 1800s, this rule has been codified by all states, in parallel with the consolidation of the principle of military necessity, according to which “the only legitimate object which States should endeavor to accomplish during war is to weaken the military forces of the enemy.”<sup>27</sup>

The principle of military necessity, so delimited, guided the codification of contemporary international humanitarian law, first in the 1949 Geneva Conventions, mainly in response to the Nazi conduct of hostilities and atrocities, and then in the 1977 two Additional Protocols to the Conventions, when the question of lawfulness or legitimacy of the atomic bombing of Hiroshima and Nagasaki was definitively resolved by codifying the prohibition of indiscriminate attacks. The 1977 Protocols, in addition, marked an international legal compromise resulting from the historical struggle between colonial and imperialist powers interested in universalizing their hegemonic ‘traditions of war’<sup>28</sup> and the forces of decolonization interested in the recognition of wars of national liberation and codification of the rights thereof.

Through this historical process, military necessity has developed as the legal and ethical belief in an overarching rationality capable of limiting and bracketing wars, preventing their descent into wars of total annihilation. This rationality resulted from the nexus between legally permitted war aims, that is, defeating armed enemies, and legally permitted means and methods of warfare, which is exclusively directing armed violence at armed enemies. The Geneva Conventions and the Additional Protocols must be seen as complementary legal tools to the 1948 Genocide Convention, as they are part of the same legal architecture aimed at preventing the targeting of civilians and wars aimed at their collective annihilation. Within this architecture of civilian protection, while IHL protects individual civilians, the Genocide Convention protects human groups, including in times of war.

25 International Committee of the Red Cross, “Rule 8. Definition of Military Objectives,” ICRC, 2024, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule8>; Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law*, Volume 1. (Cambridge University Press, 2005), 29-36.

26 Rome Statute of the International Criminal Court 1998, Preamble: “Affirming that the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation”.

27 Declaration Renouncing the Use, in Time of War, of Explosive Projectiles Under 400 Grammes Weight 1868, para 3.

28 Karma Nabulsi, *Traditions of War. Occupation Resistance and the Law*. (Oxford University Press, 2000).

Since the beginning of its response to October 7, the Israeli leadership has articulated the justification for the eliminationist violence it has unleashed against Gaza through two sets of arguments. On one hand, it has developed a discourse of complete dehumanization that publicly, confidently, and loudly excludes the existence of “innocent” or “uninvolved civilians” within the Palestinian national group in Gaza, resorting to genocidal tropes like ‘Amalekites’ or ‘children of darkness’ to represent Palestinians, and even openly vindicating the need of their “total extermination.”<sup>29</sup> This genocidal characterization of Palestinians as an “an entire nation” responsible and therefore targetable should be understood as the climax of decades of subsuming the question of Palestine into the war on terror, and representing all aspects of Palestinian collective life as extensions of a ‘terrorist’ infrastructure to be erased.<sup>30</sup>

On the other hand, the same leadership has represented the military campaign guided by these genocidal premises as fully abiding by international humanitarian law, attempting to project in the international arena the liberal image of a Western state upholding the principles of distinction, proportionality, and military necessity, and waging war with exceptional efforts to spare civilians while fighting an unlawful enemy. The notion of *humanitarian camouflage* for genocide crucial, therefore, to unveil how Israel conjugates its dehumanizing war of annihilation with its liberal facade.

By ‘humanitarian camouflage,’ we intend Israel’s strategy of rewriting the basic rules of international humanitarian law to fit and legalize practices of genocidal elimination of the Palestinian population and destruction of the infrastructure indispensable for its collective survival. In the next sections, we will analyze how words and concepts contained in several rules of the law of armed conflict have been disassembled from their normative context, altered, transformed into licenses for mass

**What is unprecedented in this genocide, however, is that concepts borrowed from the laws of war have been definitively eviscerated of their meaning and protective purposes to legitimize annihilatory violence against Palestine as a nation and against Palestinians as a group.**

---

29 See Law for Palestine, “Database of Israeli Incitement to Genocide – Decision Makers,” Law for Palestine, 2024, <https://law4palestine.org/wp-content/uploads/2024/01/1-Database-of-Israeli-Incitement-to-Genocide-15th-January-2024-DECISION-MAKERS.pdf>.

30 To the point that the former General advising Gallant lucidly theorized the need “not [to] shy away from lethal epidemics” as method of warfare, which would have brought “the victory nearer.” See Jonathan Ofir, “Influential Israeli national security leader makes the case for genocide in Gaza,” *Mondoweiss*, 2023, <https://mondoweiss.net/2023/11/influential-israeli-national-security-leader-makes-the-case-for-genocide-in-gaza/>; and Gideon Levy, “Giora Eiland’s Monstrous Gaza Proposal Is Evil in Plain Sight,” *Haaretz*, 2023, <https://www.haaretz.com/opinion/2023-11-23/ty-article-opinion/.premium/giora-eilands-monstrous-gaza-proposal-is-evil-in-plain-sight/0000018b-f84b-d473-affb-f9eb09af0000>.

killing and indiscriminate destruction, and reassembled into a ‘law of armed genocide,’ tailored for the racialized Palestinian population, with its physical destruction in whole or in part portrayed as a ‘collateral,’ ‘legitimate,’ and indeed ‘necessary’ means to achieve the declared war aims.

## “Every School, Every Mosque, Every Second House”: Revoking the Protection of Civilian Objects

Confronted with a sophisticated form of tunnel warfare, the Israeli military bent the IHL principle of military necessity to accommodate its war of total destruction. In an interview with the London Broadcasting Company (LBC), the Israeli Ambassador to the United Kingdom declared that in Gaza “every school, every mosque, every second house has access to a tunnel.” When LBC’s Iain Dale contested, “That’s an argument for destroying the whole of Gaza, every single building,” the Israeli Ambassador responded, “Do you have another solution?”<sup>31</sup> The unusually candid exchange illuminates how, for the Israeli political leadership, each and every protected civilian in Gaza is not really a civilian object, based on the premise that they are all connected to the same underground ‘city of terror.’ This view has also been translated into the official legal positions of the Israeli government and military.

In a document entitled “ Hamas-Israel Conflict 2023: Key Legal Aspects,” published a few weeks after the assault on Gaza, the Israeli Ministry of Foreign Affairs (MFA) affirms that “ Hamas systematically and unlawfully embeds its military assets within heavily populated areas, and carries out its military activities *amongst, behind, and under* its own civilians.”<sup>32</sup> This approach frames the entirety of the Gaza civilian population and infrastructure as pervasive obstructions living and existing *amongst, in front of, and above* the Israeli targets. Through this prism, the protection accorded by IHL to civilian objects is replaced with a representation of the whole living space of the protected Palestinian group as a *continuum* of military objectives. As Israel’s MFA further articulates, through this prism, “ many *ostensibly* civilian objects may become legitimate targets.”<sup>33</sup> This overall framing extends to every built-up area in Gaza the generalized potential of becoming a target, in premise, and without any circumstantial determination or evidence.

Legally speaking, the determination of what constitutes a military objective under IHL is not categorical but rather circumstantial, based on the specific circumstances ruling in the place and time of each specific attack. What is or is not protected from attacks, in other words, depends on what is happening within the relevant structure on the ground. The Additional Protocols to the Geneva Conventions make clear that attacks should be “ *strictly limited*” to objects which “ by their nature, location, purpose or use make an effective contribution to military

31 LBC, “Do you have another solution? Israeli Ambassador defends destruction of Gaza,” YouTube, 2024,) <https://www.youtube.com/watch?v=cQrtqvSYjMIC> ; Steph Brawn, ‘LBC: Israeli ambassador to UK says EVERY Gaza building is a target’ (The National, 2024) <<https://www.thenational.scot/news/24026946.lbc-israeli-ambassador-uk-says-every-gaza-building-target/>.

32 Ministry of Foreign Affairs, “ Hamas-Israel Conflict 2023: Key Legal Aspects,” Israeli Government, 2023, <https://www.gov.il/en/pages/hamas-israel-conflict2023-key-legal-aspects>.

33 *Id.*

# By ‘humanitarian camouflage,’ we intend Israel’s strategy of rewriting the basic rules of international humanitarian law to fit and legalize practices of genocidal elimination of the Palestinian population and destruction of the infrastructure indispensable for its collective survival.

---

action,” and whose “total or partial destruction,” or “capture or neutralization,” in the circumstances ruling at the time, offers “a definite military advantage.”<sup>34</sup> Objects, in sum, can be attacked if and for as long as they are used militarily for active hostilities. An empty building, for example, irrespective of its former civilian use, might become a lawful target if it is being used by active fighters to launch attacks therefrom.

However, this does not mean that suspicions or speculations by attackers about future military uses suffice to transform civilian objects into targets. The same IHL norm unequivocally states that “in case of doubt whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling or a

school, is being used to make an effective contribution to military action, it shall be presumed not to be so used.”<sup>35</sup> In its annihilation war in Gaza, Israel has subverted this presumption into its opposite. Based on the assumption that Palestinian armed groups embed themselves among civilians, the protection of every civilian object is revoked, generating a mechanism of *à la carte* determination of what constitutes a military objective.

The combination of eliminationist views of military necessity and pseudo-legal discourses has gone so far as to propose that any object that had allegedly been (in the past, retrospectively) or might have been (speculatively, in future) used militarily, was lawfully destroyable.<sup>36</sup> By this logic, no civilian object in any armed conflict, particularly if fought in urban areas, can ever resist its transformation into an ostensibly legitimate target. This pseudo-legal rationale was translated into a policy of erasure of Gaza’s inhabited areas, whereby innumerable controlled demolitions and extensive destruction of civilian objects were carried out,<sup>37</sup> even after the control of the structures was acquired by the Israeli army, removing any plausible justification based on military necessity or advantage. As a consequence,

34 See *supra* fn. 24.

35 Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I), adopted 8 June 1977, Article 52(3).

36 Israel Defense Forces, “The Central Command,” IDF, 2024, <https://www.idf.il/en/mini-sites/idf-press-releases-regarding-the-hamas-israel-war/april-24-press-releases/war-against-hamas-6-months-operational-update/the-central-command/>. And by the idea itself of total destruction of every building in the so-called ‘buffer zone’, see UN News, “‘Buffer zone’ possible war crime: UN human rights chief,” United Nations, 2024, <https://news.un.org/en/story/2024/02/1146352>.

37 Nick Waters, “‘We’ve Become Addicted to Explosions’ The IDF Unit Responsible for Demolishing Homes Across Gaza,” Bellingcat, 2024, <https://www.bellingcat.com/news/2024/04/29/weve-become-addicted-to-explosions-the-idf-unit-responsible-for-demolishing-homes-across-gaza/>.



houses, schools, university buildings, courts, municipalities offices, parliamentary assembly buildings, and entire civilian neighborhoods were razed to the ground.<sup>38</sup>

Distorting the IHL's circumstantial determination of objects into a flexible tool for indiscriminate destruction, the arbitrary 'militarization' of civilian facilities has reached its apex after October 2023. Encouraged by scholarship that maintains that the military use of a single flat among hundreds in high-rise civilian towers can 'virally' spread the military status of that flat to the entire tower,<sup>39</sup> the Israeli army had already vindicated the legality of attacking and razing huge civilian buildings in the past.<sup>40</sup> In past hostilities, however, advance warnings were often issued in such cases, preserving a facade of legality. Instead, reports on the current assault on Gaza indicate that, in a context of AI-

generated targets, numerous high-rise towers were attacked without prior warnings. Dozens of families inside these towers were thus considered killable component-parts of military objectives. The unlawful military doctrine supporting this practice, coupled with AI-driven targeting procedures, dehumanizes the entirety of a protected group and distorts the notion of military necessity to accommodate the destruction of so-called 'power targets'<sup>41</sup>—civilian objects, infrastructures and residential buildings—particularly when some sort of "fig leaf" military objective could be alleged to be therein.<sup>42</sup> According to this doctrine, attacking civilian objects would shock the population and induce them to put political pressure on Palestinian armed groups to surrender.

This strategy appears to rely on mass destruction and mass killing, disguised as IHL-abiding, to spread terror among the civilian population.<sup>43</sup> In reality, the

**In its annihilation war in Gaza, Israel has subverted this presumption into its opposite. Based on the assumption that Palestinian armed groups embed themselves among civilians, the protection of every civilian object is revoked, generating a mechanism of à la carte determination of what constitutes a military objective.**

---

38 Leanne Abraham et al., "Israel Controlled Demolitions Are Razing Neighborhoods in Gaza," *New York Times*, 2024, <https://www.nytimes.com/interactive/2024/02/01/world/middleeast/Israel-gaza-war-demolish.html>.

39 Luigi Daniele, "Incidentalities of the civilian harm in international humanitarian law and its *Contra Legem* anonymities in recent discourses on the laws of war," *Journal of Conflict and Security Law* 29, no. 1 (2024): 45-46.

40 Adil Haque, "The IDF's Unlawful Attack on Al Jalaa Tower," *Just Security*, 2021, <https://www.justsecurity.org/76657/the-idfs-unlawful-attack-on-al-jalaa-tower/>.

41 Israel Defense, "רשימת: רשימת: רשימת" [Get to Know: Power Targets], Israel Defense, 2019, <https://www.israeldefense.co.il/node/37949>.

42 Yuval Abraham, "'A mass assassination factory': Inside Israel's calculated bombing of Gaza," *+972 Magazine*, 2023, <https://www.972mag.com/mass-assassination-factory-israel-calculated-bombing-gaza/>.

43 'Rule 2', ICRC Customary IHL Database, at <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule2>, specifying however that the prohibition applies when the 'primary purpose' of the relevant threats or acts of violence is to spread terror.

campaign has been one of constant terror for the Palestinian population. Entire multi-story buildings, such as the Al-Taj tower in Gaza City,<sup>44</sup> have been levelled while still full of civilians, knowingly killing hundreds in single strikes. Multiple reports show that the distinction between civilian objects and military objectives has been de facto abolished on a large-scale. In just the first three weeks of the 2023 offensive, entire residential areas in cities across the northern parts of the besieged enclave were erased (as shown internationally by satellite imagery of Beit Hanoun, Beit Lahiya, Al-Athatra and Al Karameh),<sup>45</sup> with simultaneous, severe bombardments of civilian neighborhoods also in the south.<sup>46</sup> The flattening of cities has continued unabated in the following weeks and months, sparing substantially no built-up civilian area of the Strip.<sup>47</sup> By the end of November, the devastation of cities in northern Gaza far exceeded that of Dresden at the end of WWII.<sup>48</sup> By mid-December, Israel had dropped 29,000 bombs, munitions and shells, destroying 70% of Gaza's 439,000 homes and damaging many more.<sup>49</sup> By the end January, almost the entirety of Gaza was reduced to rubble.

The distortions of humanitarian law analyzed here ultimately served the purpose of making Gaza unlivable, camouflaging a 'domicide',<sup>50</sup> and ensuring that displaced Palestinians have no homes or cities to return to.<sup>51</sup> However, these distortions, aimed at the obliteration of civilian objects, did not work in isolation but in combination with other allegedly legal arguments in an attempt to camouflage the core feature of this genocidal assault: the intentional, mass killing of Palestinian civilians.

## **“It is Irrelevant to Ask How Many Children Were Incidentally Killed”: Proportionality for a ‘Collateral’ Genocide.**

The de-civilianization of the Palestinian protected group, functional to its physical destruction, has been projected from objects onto the population. When

44 Ghada Alkurd et al, “Why Did Israel Bomb This Residential Building in Gaza City?” Spiegel International, 2024, <https://www.spiegel.de/international/world/gaza-city-possible-war-crime-why-did-israel-bomb-this-residential-building-a-a7e9e4f9-9879-404a-bb87-4a17cef81f8c>.

45 Jonathan Yerushalmy et al., “Gaza before and after: satellite images show destruction following Israeli airstrikes,” *The Guardian*, 2023, <https://www.theguardian.com/world/2023/oct/27/gaza-before-and-after-satellite-images-show-destruction-after-israeli-airstrikes>.

46 Reuters, “Israel orders Gazans to flee, bombs where it sends them,” YouTube, 2023, <https://www.youtube.com/watch?v=JIGmwCMETMs>.

47 Niels de Hoog et al, “How war destroyed Gaza's neighborhoods – visual investigation,” *The Guardian*, 2024, <https://www.theguardian.com/world/ng-interactive/2024/jan/30/how-war-destroyed-gazas-neighbourhoods-visual-investigation>.

48 John Paul Rathbone, “Military Briefing. The Israeli Bombs Raining on Gaza,” *Financial Times*, 2023, <https://www.ft.com/content/7b407c2e-8149-4d83-be01-72dcae8aee7b>.

49 Jared Malsin and Saeed Shah, “The Ruined Landscape of Gaza After Nearly Three Months of Bombing,” *The Wall Street Journal*, 2023, <https://www.wsj.com/world/middle-east/gaza-destruction-bombing-israel-aa528542>.

50 Balakrishnan Rajagopal, “Domicide: The Mass Destruction of Homes Should Be a Crime Against Humanity,” *The New York Times*, 2024, <https://www.nytimes.com/interactive/2024/01/29/opinion/destruction-of-homes-crime-domicide.html>.

51 See UN Human Rights Council, “Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context,” (2017) UN Doc A/HRC/34/51; UN Human Rights Council, “Adequate housing as a component of the right to an adequate standard of living, and the right to non-discrimination in this context,” (2022) UN Doc A/77/190, para. 41-48.

individual strikes regularly kill and injure hundreds of civilians, most of whom are children,<sup>52</sup> Israel's humanitarian camouflage for genocide has turned to one of the most debated and controversial customary IHL rules, that is the rule of proportionality in attacks.

Proportionality, a rule that is legally inoperative unless the distinction between civilians and combatants is respected, prohibits attacks even on lawful targets if the incidental harm to civilians (including killing, injuring, or damaging civilian objects) is expected to be “*excessive* in relation to the concrete and direct military advantage anticipated.”<sup>53</sup> The convoluted wording of this IHL provision can be simplified as imposing a rule, in individual attacks, of ‘non-excessiveness’ of the incidental harm to civilians and/or civilian objects. Determining how much foreseeable incidental harm to civilians is ‘excessive’ in comparison to the military advantage anticipated is, obviously, an issue that has kept laws of war experts debating for decades, while costing the lives of innumerable civilians in many armed conflicts.<sup>54</sup> The relative indeterminacy and subjectivity of this test, however, cannot be used for removing any reasonable limit to the entity of civilian harm that can be considered incidental and not excessive, or to consider the whole population of residents of entire neighborhoods as ‘collateral damage.’

In Israel's racialized interpretation of the laws of war, proportionality has been altered to increasingly diminish the value of Palestinian civilians' right to life. During multiple rounds of aggression against Gaza over the past two decades, Palestinian civilians have been framed as mere proximities to military targets, whose indiscriminate killing was portrayed as an unfortunate but proportionate cost of Israel's pursuit of its military advantages.<sup>55</sup> This process has enabled a genocidal re-

## **“In Israel's racialized interpretation of the laws of war, proportionality has been altered to increasingly diminish the value of Palestinian civilians' right to life.”**

52 “Earlier, the surgical director of the Indonesian hospital, Mohamed el-Ron, told the BBC it received 400 casualties, including 120 dead, and the majority were women and children,” in Emma Graham-Harrison, Manisha Ganguly and Elena Morresi, “Cratered ground and destroyed lives: piecing together the Jabalia camp airstrike,” *The Guardian*, 2023, <https://www.theguardian.com/world/2023/nov/01/jabalia-camp-airstrike-gaza>.

53 Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I) 1977, Article 51(5)(b).

54 William Fenrick, “The Rule of Proportionality and Protocol I in Conventional Warfare,” *Military Law Review* 98 (1980): X; Joseph Hollande, “Military Objective and Collateral Damage: their Relationship and Dynamics,” *Yearbook of International Humanitarian Law* 7 (2004): X; Tom Parker, “The Proportionality Principle in the War on Terror,” *Hague Yearbook of International Law* 15 (2002): X; Kenneth Watkin, “Assessing Proportionality: Moral Complexity and Legal Rules,” *Yearbook of International Humanitarian Law* 8 (2005): X; Wolff Heintschel von Heinegg, “Considerations of Necessity under Article 57(2)(a)(ii), (c), and (3) and Proportionality under Article 51(5)(b) and Article 57(2)(b) of Additional Protocol I: Is There Room for an Integrated Approach” in Claus Krefß and Robert Lawless (eds), *Necessity and Proportionality in International Peace and Security Law* (OUP 2020); Adil Haque, “A Theory of Jus in Bello Proportionality,” in *Weighing Lives in War*, ed. Jens David Ohlin, Larry May, Claire Finkelstein (OUP 2017), 188–216.

55 See Luigi Daniele, “A lethal misconception, in Gaza and beyond: disguising indiscriminate attacks as potentially proportionate in discourses on the laws of war,” *EJILTalk*, 2023, <https://www.ejiltalk.org/a-lethal-misconception-in-gaza-and-beyond-disguising-indiscriminate-attacks-as-potentially-proportionate-in-discourses-on-the-laws-of-war/>.

translation of proportionality, morphing, in each round of attack on Gaza, into a license of mass killing of growing numbers of civilians. In the ongoing genocide, the scope of the ‘proportionate collateral damage’ has subsumed the protected Palestinian group in its entirety.

Not long before the current assault on Gaza, during Israel’s 2021 attacks which resulted in the killing of 66 Palestinian children and injuries of 600 more, Israeli military legal experts publicly proposed that, when “considering the military advantage gained by eliminating senior terrorists, it is irrelevant to ask how many children were *incidentally* killed.”<sup>56</sup> In this rationale, IHL proportionality is reinterpreted to render the conscious killing of children, regardless of the number, as irrelevant when targeting suspected ‘terrorists.’ According to this subculture of disproportion, no amount of foreseeable mass killing of Palestinian children in attacks can be deemed anything other than incidental, proportionate, and inherently lawful.<sup>57</sup>

This logic has become the norm in the current assault on Gaza. Areas with a population density of 35,000 people per km<sup>2</sup> have been systematically attacked with destructive, wide-area impact weapons, often without any prior warning. The examples are innumerable. On the afternoon of October 25, 2023, the Al-Yarmouk neighborhood in Gaza City was bombarded. A densely populated area of nearly 6 km<sup>2</sup> was largely flattened, including a high-rise residential tower. According to the UN OHCHR, 91 Palestinians were killed, including 28 women and 39 children. On October 31, 2023, Israeli strikes on the Al-Tarnis area of the Jabalia refugee camp killed at least 126 civilians, including 69 children. A further 280 civilians were injured, as reported by the director of the Indonesian Hospital. On October 31, 2023, an Israeli airstrike on a six-story apartment building near the Nuseirat refugee camp killed at least 106 civilians, including 54 children.<sup>58</sup>

In each of these attacks, the mass killing of civilians was indisputably intentional. Flattening dense civilian neighborhoods through aerial bombardment signals purposeful acceptance that the civilians on the ground will inevitably be exterminated. By distorting the IHL notions of incidental civilian harm and proportionality, Israel has portrayed its relentless, daily extermination of civilians as a sum of unintended, collateral, proportionate, and thus ‘lawful’ costs of legitimate attacks. Many authors have validated this curious conception of criminal intent, arguing that attacks must be solely directed at civilians in order to be considered intentional.<sup>59</sup> Through this discursive fraud, entire Palestinian families,

56 Maurice Hirsch, “Considering the military advantage gained by eliminating these senior terrorists...” X, 2023, <https://x.com/MauriceHirsch4/status/1655840611704897536>. The words were chosen by the senior officer, bafflingly, to rephrase his own reflection on proportionality under IHL concluding that ‘as much as [...] haters may opt to distort its meaning, proportionality in IHL is very clear and its meaning does not change into what they would like you to believe it means’, see Maurice Hirsch, “What is Proportionality in International Law When it Comes to Israel?” *Jerusalem Post*, 2022, <https://www.jpost.com/opinion/article-714398>.

57 Luigi Daniele, “Incidental harm of the civilian in international humanitarian law and its *Contra Legem* antonyms in recent discourses on the laws of war,” *Journal of Conflict and Security Law* 29, no. 1 (2024): 21–54.

58 See Noura Erakat, Josh Paul, et al., “Report of the Independent Task Force on the Application of National Security Memorandum-20 to Israel,” *Just Security*, 2024, [https://www.justsecurity.org/wp-content/uploads/2024/04/NSM20-TF-Report-\\_-Final.pdf](https://www.justsecurity.org/wp-content/uploads/2024/04/NSM20-TF-Report-_-Final.pdf).

59 See *contra* Luigi Daniele, “Incidental harm of the civilian in international humanitarian law and its *Contra Legem* antonyms in recent discourses on the laws of war,” *Journal of Conflict and Security Law* 29, no. 1 (2024): 15.

spanning three to five generations, have been wiped out<sup>60</sup> under the pretense of proportionality.

More than ever before, the genocidal distortion of IHL proportionality has been further elaborated and formalized in the official legal positions of the Israeli government. While IHL proportionality traditionally refers to each individual attack, Israel's MFA exterminatory proportionality assessments propose that "military advantage [...] may refer to the advantage anticipated from an operation as a whole,"<sup>61</sup> alluding to the overall purpose of the war. In sum, while IHL proportionality works through ideal scales weighing against each other the tactical military advantage sought and the harm to civilians expected in each, individual attack, Israel's humanitarian camouflage for genocide proposes that the harm to civilians, included their anticipated killing, in each attack can—and indeed must—be balanced against the overall military advantage of the war in its entirety.

This operation disrupts the normative balance that IHL tries to strike between military necessity and humanity. Once this camouflage is validated, in sum, there is obviously no amount of foreseeable killing of civilians that will ever be excessive in comparison to such an all-encompassing military advantage. At the same time, according to this engine of distortions of the laws of war, no attack will ever be indiscriminate because every measure of anticipated killing of protected persons and destruction of protected objects will be per definition, in the mind of the attackers, incidental and never excessive.<sup>62</sup>

Nimer Sultany recently noted how the Israeli army, guided by the combined effect of the various genocidal distortions analyzed in this article, appears to perceive the indiscriminate killing of civilians in areas subject to evacuation orders as lawful. Sultany noted that senior military officers commented to Israeli press agencies that once a population has been ordered to evacuate from cities, the army should have no concerns about collateral damage, because any civilians remaining, if killed *en masse* by Israeli forces, would be the responsibility of Palestinian armed groups "holding them as hostages."<sup>63</sup> As Jess White has argued, these distortions represent "the extreme form of an argumentative strategy that views the destruction of peoples and whole worlds as "incidental" to military necessities."<sup>64</sup> This is, in other words, the expression of 'proportionate genocide,' where the cumulative physical destruction of a substantial part of the victim group represented as a sum of lawful collateral damage, and thus as an aggregate collateral damage in its entirety.

60 Sarah El Deeb, "The war in Gaza has wiped out entire Palestinian families. AP documents 60 who lost dozens or more," *Associated Press*, 2024, <https://apnews.com/article/gaza-palestinians-families-israel-war-deaths-a9f8bcfe402c17f1f78903eae67b7a7d>.

61 *Supra* fn 31 p. 10. Relatedly, see Leonard Rubenstein, "Israel's Rewriting of the Laws of War," *Just Security*, 2021, <https://www.justsecurity.org/90789/israels-rewriting-of-the-law-of-war/>.

62 On how the IHL notion of incidentality of the civilian harm is completely capsized in this reasoning, Luigi Daniele, "Incidentality of the civilian harm in international humanitarian law and its *Contra Legem* antonyms in recent discourses on the laws of war," *Journal of Conflict and Security Law* 29, no. 1 (2024): 32.

63 Nimer Sultany, "A Threshold Crossed: On Genocidal Intent and the Duty to Prevent Genocide in Palestine," *Journal of Genocide Research* 26, no. 4, (2024): 10, <https://doi.org/10.1080/14623528.2024.2351261>.

64 Jessica White, "A 'Tragic Humanitarian Crisis': Israel's Weaponization of Starvation and the Question of Intent" *Journal of Genocide Research* 26, no. 4, (2024): 14, <https://doi.org/10.1080/14623528.2024.2339637>.

In this way, collateral damage and proportionate civilian harm become code words not only for routinely exterminating civilians in attacks but, more profoundly, for eliminating a substantial part of the protected group during wartime. The International Criminal Court Office of the Prosecutor,<sup>65</sup> The UN Independent Commission of Inquiry,<sup>66</sup> and the Office of the High Commissioner for Human Rights<sup>67</sup> have all indicated the routine commission of disproportionate and indiscriminate attacks in Gaza as articulations of a widespread or systematic attack, pursuant to a state policy, against the civilian population, thus qualifying the attacks as crimes against humanity. They are, however, yet to recognize the genocidal character of these hostilities, omitting to consider the evidence of genocidal intent both clearly stated and also inferable from these distortions, betraying a conception, and shaping a military policy in which the physical destruction of the victim group is operationalized as incidental to military necessity and thus as ‘lawful’ means to achieve Israel’s war aims.

## A Population of ‘Human Shields’

One of the key legal technologies deployed by Israel to translate its genocide to the world is the abuse of the term “human shield.” IHL strictly prohibits “using the presence or movements of civilians or other protected persons to render certain points, areas, (or military forces) immune from military operations.”<sup>68</sup> Transforming noncombatants into human shields constitutes a war crime<sup>69</sup> and is a serious violation of the duty to spare the civilian population and take feasible passive precautions during military operations.<sup>70</sup> However, even when the illegal practice of human shielding occurs, the attacking party must take into account the risk to civilians and avoid indiscriminate or disproportionate harm to them, abiding by Article 51(8) of the Additional Protocol I to the Geneva Convention and customary IHL.<sup>71</sup> In other words, the allegation of using human shields does not legitimize

65 Yahya Sinwar et al., “Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for arrest warrants in the situation in the State of Palestine,” International Criminal Court, 2024, <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-applications-arrest-warrants-situation-state>.

66 Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, A/HRC/56/26, 27 May 2024, and Detailed findings on attacks carried out on and after 7 October 2023 in Israel, 10 June 2024, at <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session56/a-hrc-56-crp-3.pdf>.

67 UN Human Rights Council, “Human rights situation in the Occupied Palestinian Territory, including East Jerusalem, and the obligation to ensure accountability and justice” (2024) UN Doc A/HRC/55/28, para. 29: “Taken together, there is growing information not only of specific attacks that may amount to war crimes, but also of possible widespread and systematic unlawful targeting by Israel due to erroneous interpretations of international humanitarian law, possibly at the policy level.” See also Office of the High Commissioner for Human Rights, “Thematic Report Indiscriminate and disproportionate attacks during the conflict in Gaza (October – December 2023),” United Nations Human Rights, 2024, <https://www.ohchr.org/sites/default/files/documents/countries/opt/20240619-ohchr-thematic-report-indiscrim-disprop-attacks-gaza-oct-dec2023.pdf>, p. 15: “Unlawful targeting when committed as part of a widespread or systematic attack directed against a civilian population, further to a State or organizational policy, may also implicate crimes against humanity.”

68 International Committee of the Red Cross, “Rule 97. Human Shields,” ICRC, 2024, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule97>; Geneva Convention relative to the Treatment of Prisoners of War 1949, Article 23(1); Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol 1) 1977, Articles 12 and 51(7).

69 Rome Statute of the International Criminal Court 1998, Article 8(2)(b)(xxiii).

70 Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol 1) 1977, Article 51.

71 Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol 1) 1977, Article 51(8).



indiscriminate or disproportionate harm to civilians, nor does it justify transforming the civilian population into a target.

In its previous aggressions on Gaza between 2008-2009 and through 2022, Israel has routinely accused Palestinian armed factions of deliberately using civilians as human shields. The accusation has been used as legal pretext to legitimize heavy civilian casualties.<sup>72</sup> However, Israel's claims have been repeatedly disproven by UN investigations and international human rights organizations. In 2009, the United Nations Fact-Finding Mission on the Gaza Conflict rejected Israel's claims and raised concerns about potential fabrications of human shielding accusations. Israel itself conceded that the images it provided to the Fact-Finding Mission to corroborate its human shielding accusations were not from the 2008–2009 war.<sup>73</sup> Similarly, Amnesty International<sup>74</sup> and Human Rights Watch found “no evidence that the civilian victims were used as human shields” during the same war.<sup>75</sup> The accusation was also mobilized in Israel's wars on Gaza in 2012 and 2014, again without evidence,<sup>76</sup> and in 2018 during the Great March of Return to justify high civilian casualties and the targeting of paramedics.<sup>77</sup> In 2021, Israel accused Palestinian armed groups of using civilians as human shields “without providing evidence.”<sup>78</sup> In 2022, Israel used the same argument to legitimize the killing of civilians, but Amnesty

**By distorting the IHL notions of incidental civilian harm and proportionality, Israel has portrayed its relentless, daily extermination of civilians as a sum of unintended, collateral, proportionate, and thus ‘lawful’ costs of legitimate attacks.**

72 Neve Gordon and Nicola Perugini, *Human Shields: A History of People in the Line of Fire* (University of California Press, 2020), 170-178; Neve Gordon and Nicola Perugini, “Distinction and the Ethics of Violence: On the Legal Construction of Liminal Subjects and Spaces,” *Antipode* 49, no. 5 (2017): 1388–1390.

73 UN Human Rights Council, “Human Rights in Palestine and Other Occupied Arab Territories” (2009) UN Doc A/HRC/12/48, para 537-543, para. 423, and 449-452.

74 Amnesty International, “Israel/Gaza. Operation ‘Cast Lead’: 22 Days of Death and Destruction,” Amnesty International, 2009, <https://www.amnesty.org/en/wp-content/uploads/2021/06/mde150152009en.pdf>.

75 Human Rights Watch, “White Flag Deaths. Killings of Palestinian Civilians during Operation Cast Lead,” HRW, 2009, <https://www.hrw.org/report/2009/08/13/white-flag-deaths/killings-palestinian-civilians-during-operation-cast-lead>.

76 Amnesty International, “Israel/Gaza conflict: Questions and Answers,” 2014, <https://www.amnesty.org/en/latest/news/2014/07/israelgaza-conflict-questions-and-answers/>; Nicola Perugini and Neve Gordon, “‘On ‘human shielding’ in Gaza,” *Al Jazeera*, 2014, <https://www.aljazeera.com/opinions/2014/7/18/on-human-shielding-in-gaza>; Nicola Perugini and Neve Gordon, “The politics of human shielding: On the resignification of space and the constitution of civilians as shields in liberal wars,” *Environment and Planning D: Society and Space* 34, no. 1 (2016): 182-183.

77 Neve Gordon and Nicola Perugini, “The fallacy of Israel's human shields claims in Gaza,” *Al Jazeera*, 2018, <https://www.aljazeera.com/opinions/2018/6/18/the-fallacy-of-israels-human-shields-claims-in-gaza>.

78 Human Rights Watch, “Gaza: Israel's May Airstrikes on High-Rises,” Human Rights Watch, 2021, <https://www.hrw.org/news/2021/08/23/gaza-israels-may-airstrikes-high-rises>; Adil Ahmad Haque, “The IDF's Unlawful Attack on Al Jalaa Tower,” *Just Security*, 2021, <https://www.justsecurity.org/76657/the-idfs-unlawful-attack-on-al-jalaa-tower/>.

International demonstrated that the claims were false, and the Israeli military later retracted the statement.<sup>79</sup>

After 7 October, this *macro-characterization* of civilians in Gaza as a population of human shields reached unprecedented levels, in an attempt to “to erase the possibility of Palestinian civilianness altogether.”<sup>80</sup> Besides the overwhelming framing of the civilian population as human shields among which Hamas is “embedded”—propagated by top-ranking Israeli political and military leaders<sup>81</sup>—the transformation of human shields into a legal tool for de-civilianization of the Palestinian population of Gaza is particularly clear in the State of Israel’s conduct of the war. In November of 2023, Israel’s Ministry of Foreign Affairs defined “the residents of the Gaza Strip as human shields” and accused Hamas of using “the civilian population as humanshields.”<sup>82</sup> The Ministry defines the population as “taking direct part in hostilities,” to such an extent that it “cannot be concluded from the mere fact that seeming ‘civilians’ or ‘civilian objects’ have been targeted, that an attack was unlawful.”<sup>83</sup>

The rhetorical elements of this key policy document, which provides the official legal approach to the use of lethal force in Gaza, are crucial. The Ministry of Foreign Affairs casts doubt on whether civilians in Gaza are indeed civilians; they only “seem” to be civilians and civilian objects but they are ultimately human shields. When an entire population is labelled as human shields without distinction, genocidal intent is camouflaged with the language of humanitarian law.

Under international law, there is no legal basis for applying the prohibition against the use of human shields to an entire population. The law does not permit a blanket claim that an opposing force is using the entire population as human shields *en masse*. Any such usage must be assessed on a case-by-case basis, verified in relation to each attack. The violation of this prohibition occurs when a given conduct is the result of a tactical choice, not merely arising from the nature of the battlefield, such as hostilities in densely-populated urban terrain.<sup>84</sup> When applied

79 Amnesty International, “Israel and Occupied Palestinian Territories: ‘They were just kids’: Evidence of war crimes during Israel’s August 2022 Gaza offensive,” Amnesty International, 2022, <https://www.amnesty.org/en/documents/mde15/6079/2022/en/>.

80 Nicola Perugini and Neve Gordon, “A Legal Justification for Genocide,” *Jewish Currents*, July 2024, <https://jewishcurrents.org/human-shields-gaza-israel-a-legal-justification-for-genocide>.

81 Ministry of Foreign Affairs, “President Herzog reveals Hamas ‘Captive Taking Handbook’ in CNN interview,” Israeli Government, 2023, <https://www.gov.il/en/pages/president-herzog-reveals-hamas-captive-taking-handbook-15-oct-2023>; The White House, “Remarks by President Biden and Prime Minister Benjamin Netanyahu of Israel Before Expanded Bilateral Meeting,” The White House, 2023, <https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/10/18/remarks-by-president-biden-and-prime-minister-benjamin-netanyahu-of-israel-before-expanded-bilateral-meeting-tel-aviv-israel/>; Ministry of Foreign Affairs, “Defense Minister Yoav Gallant hosts Delegation of US Senators,” Israeli Government, 2023, <https://www.gov.il/en/pages/1swordsofiron151023>; Israel Defense Forces, “Press Briefing by IDF Spokesperson Rear Admiral Daniel Hagari, October 10th, Evening,” IDF, 2023, <https://www.idf.il/en/mini-sites/hamas-israel-war-24/briefings-by-idf-spokesperson-rear-admiral-daniel-hagari/october-press-briefings/press-briefing-by-idf-spokesperson-rear-admiral-daniel-hagari-october-10th-evening/>.

82 Ministry of Foreign Affairs, “Hamas-Israel Conflict 2023: Key Legal Aspects,” Israeli Government, 2023, <https://www.gov.il/en/pages/hamas-israel-conflict2023-key-legal-aspects>.

83 *Id.*

84 Stephanie Bouchié de Belle, “Chained to Cannons or Wearing Targets on Their T-shirts: Human Shields in International Humanitarian Law,” *International Review of the Red Cross* 90, no. 872 (2008): 883-906; Robin Geiß and James Devaney, “Zealots, Victims and Captives: Maintaining Adequate Protection of Human Shields in Contemporary International Humanitarian Law,” *Israel Yearbook on Human Rights* 47 (2017): 11-33.

to an entire population and territory, the concept of human shielding is transformed from an alleged circumstantial war crime—deserving of investigations and potential penal sanctions—into a technology for exterminating civilians under pretenses of legality.

This overinclusive language is underpinned by the mass characterization of everything from churches,<sup>85</sup> mosques,<sup>86</sup> schools,<sup>87</sup> UN facilities,<sup>88</sup> universities,<sup>89</sup> ambulances, and hospitals<sup>90</sup> as being connected with Hamas, serving to reinforce the perception of the pervasive complicity. Through the accusation of human shielding, Israel has turned Gaza into a “world without civilians,” where “everything from taking shelter in hospitals or fleeing for safety is declared a form of human shielding.”<sup>91</sup> Through this genocidal logic and military doctrine, Hamas and Palestinian civilians are defined as “proximate” and therefore exist in a human shielding relationship of military continuity with all potential Israeli targets.<sup>92</sup> Palestinians are targeted as a people under the cloak of purported legality, in what amounts to an admission of genocidal intent.

## “Medical Shielding”: Eradicating Gaza’s Healthcare System

Israel’s humanitarian camouflage through the figure of the human shield was transferred from the realm of persons to that of life-saving and life-sustaining medical facilities, in an attempt to legitimize the destruction of healthcare infrastructure and the killing of medical personnel. The progressive obliteration of the healthcare sector in Gaza has been portrayed as being compliant with the standards of international law. The targeting of medical facilities—while blaming the enemy for using healthcare as a shield—was already a tactic of “medical warfare” employed by Israel in previous wars.<sup>93</sup> In the 2023 war, this strategy became an overarching legal technique for justifying genocide through the

85 Al Jazeera, “Israel bombs Greek Orthodox Gaza church sheltering displaced people,” Al Jazeera, 2023, <https://www.aljazeera.com/news/2023/10/20/war-crime-israel-bombs-gaza-church-sheltering-displaced-people>.

86 Israel Defense Forces, “Holy places, such as mosques, should not be used as fronts for terrorism...” X, 2023, <https://x.com/IDF/status/1727059761466650632>.

87 Emanuel Fabian, “Army finds weapons in north Gaza school, hits 230 sites in past day,” The Times of Israel, 2023, [https://www.timesofisrael.com/liveblog\\_entry/army-finds-weapons-in-north-gaza-school-hits-230-sites-in-past-day/](https://www.timesofisrael.com/liveblog_entry/army-finds-weapons-in-north-gaza-school-hits-230-sites-in-past-day/); Israel Defense Forces, “RPGs, mortar shells, and other weapons were found by IDF troops...” X, 2023, <https://x.com/IDF/status/1725683576522334603>.

88 Emanuel Fabian, “Army finds weapons in north Gaza school, hits 230 sites in past day,” The Times of Israel, 2023, [https://www.timesofisrael.com/liveblog\\_entry/army-finds-weapons-in-north-gaza-school-hits-230-sites-in-past-day/](https://www.timesofisrael.com/liveblog_entry/army-finds-weapons-in-north-gaza-school-hits-230-sites-in-past-day/); Pamela Falk, “Israel says these photos show how Hamas places weapons in and near U.N. facilities in Gaza, including schools,” CBS News, 2023, <https://www.cbsnews.com/news/israel-photos-hamas-gaza-weapons-un-facilities-including-schools/>; Israel Defense Forces, “IDF troops continue operational activity around the Shati area...” X, 2024, <https://x.com/IDF/status/1724002788810600946>.

89 Patrick Jack, “Academia in Gaza ‘has been destroyed,’ by Israeli ‘educide,’” Times Higher Education, 2024, <https://www.timeshighereducation.com/news/academia-gaza-has-been-destroyed-israeli-educide>.

90 Israel Defense Forces, “Terrorists operating within hospitals can be a hard pill to swallow...” X, 2023, <https://x.com/IDF/status/1725455901824323697?s=20>.

91 Elyse Semerdjian, “A World Without Civilians,” *Journal of Genocide Research* 26, no. 4 (2024): 3.

92 Neve Gordon and Nicola Perugini, *Human Shields: A History of People in the Line of Fire* (University of California Press, 2020), 159-169; Neve Gordon and Nicola Perugini, “Proximate ‘human shields’ and the challenge for humanitarian organizations,” ICRC Law and Policy Blog, 2021, <https://blogs.icrc.org/law-and-policy/2021/11/18/proximate-human-shields/>.

93 Nicola Perugini and Neve Gordon, “Medical Warfare: The Nakba and Israel’s Attacks on Palestinian Healthcare,” *Journal of Palestine Studies* 53, no. 1 (2024): 38-91.

complete destruction of medical infrastructure.<sup>94</sup>

As civilian healthcare is specially protected under international law, the threshold for losing this protected status is exceptionally high.<sup>95</sup> The use of hospitals outside their humanitarian function, or positioning military targets in their proximity, is unlawful. International law protects hospitals while prohibiting their use as shields for military activities.<sup>96</sup> Since the beginning of the hostilities, Israel has framed Gaza hospitals as Hamas' "headquarters" and spaces of medical shielding for military activities.<sup>97</sup> This has blurred the distinction between civilians and military objects, transforming hospitals into "hospital shields"<sup>98</sup> in an attempt to legitimize the systematic destruction of Gaza's healthcare sector.

In November of 2023, Al-Shifa Hospital in northern Gaza was hosting tens of thousands of Palestinians displaced by evacuation orders in the area. They sought shelter in the medical facility which was subsequently besieged and invaded by Israeli forces. On October 27, the Israeli military took to social media, circulating a 3D video depicting the hospital's underground spaces as a complex network of tunnels functioning as " Hamas command center."<sup>99</sup> On November 2, the Israeli Ministry of Foreign Affairs published a legal document framing the hospital as a military center that was concealing military assets.<sup>100</sup> The hospital was placed under siege and invaded in mid-November, with Israel accusing Hamas of using displaced Palestinians and medical personnel as "human shields."<sup>101</sup> After days of

## **The transformation of human shields into a legal tool for de-civilianization of the Palestinian population of Gaza is particularly clear in the State of Israel's conduct of the war.**

94 Ministry of Foreign Affairs, " Hamas-Israel Conflict 2023: Frequently Asked Questions," Israel government, 2023, [https://www.gov.il/BlobFolder/generalpage/swords-of-iron-faq-6-dec-2023/en/English\\_Documents\\_Israel-Hamas%20Conflict%202023%20-%20FAQs%20\(Israel%20MFA,%206.12.23\).pdf](https://www.gov.il/BlobFolder/generalpage/swords-of-iron-faq-6-dec-2023/en/English_Documents_Israel-Hamas%20Conflict%202023%20-%20FAQs%20(Israel%20MFA,%206.12.23).pdf).

95 Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I) 1977, Articles 13(1) and 52(3); Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field 1949, Article 21; Geneva Convention Relative to the Protection of Civilian Persons in Time of War 1949, Articles 18 and 19; Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) 1977, Article 11(2).

96 Nicola Perugini and Neve Gordon, "Medical Lawfare: The Nakba and Israel's Attacks on Palestinian Healthcare," *Journal of Palestine Studies* 53, no. 1 (2024): 38-91; Geneva Convention Relative to the Protection of Civilian Persons in Time of War 1949, Articles 18-19; Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I) 1977, Article 12(4).

97 Israel Defense Forces, " Hamas HQ Hidden Under Gaza's Largest Hospital," YouTube, 2023, <https://youtu.be/eggBF9rnBe0?feature=shared>.

98 Neve Gordon and Nicola Perugini, "Hospital Shields' and the Limits of International Law" *European Journal of International Law* 30, no. 2 (2019): 443.

99 Israel Defense Forces, "The Shifa Hospital is not only the largest hospital in Gaza..." X, 2023, <https://x.com/IDF/status/1718010359397634252>.

100 Ministry of Foreign Affairs, " Hamas-Israel Conflict 2023: Key Legal Aspects," Israeli Government, 2023, <https://www.gov.il/en/pages/hamas-israel-conflict2023-key-legal-aspects>.

101 Jason Burke, "Battle for al-Shifa hospital in Gaza fraught with diplomatic risk for Israel," *The Guardian*, 2023, <https://www.theguardian.com/world/2023/nov/12/control-of-al-shifa-hospital-in-gaza-is-a-key-israeli-military-and-political-aim>.

## **The targeting of medical facilities—while blaming the enemy for using healthcare as a shield—was already a tactic of “medical lawfare” employed by Israel in previous wars.**

attacks, the hospital was turned into a “death zone.”<sup>102</sup> Three premature babies died as a result of Israel’s siege and interruption of electricity,<sup>103</sup> and parts of the hospital were turned into mass graves.<sup>104</sup>

Media reports debunked Israel’s allegations that Hamas were using hospitals as shields, asserting that there was no evidence to suggest that rooms connected to the hospital had been used by Hamas; the hospital buildings (contrary to Israeli military 3D images) were found not to be connected to the

tunnel network, and there was no evidence that the tunnels were accessible from the hospital wards.<sup>105</sup> Additionally, Israeli soldiers reportedly rearranged weaponry at Al-Shifa before approved news crews visited,<sup>106</sup> raising further suspicions of fabrication. This followed another incident where the Israeli army had claimed to have found a “list of terrorists” in another Gaza hospital – the Al Rantisi – which turned out to be a calendar of the days of the week in Arabic.<sup>107</sup>

Whether or not Israel’s accusations of hospital shielding at Al-Shifa were true (and they remain unproven), the civilians in the hospitals should have been protected and not subjected to siege and military attack.

In this instance, the intent behind Israel’s “humanitarian camouflage” can only be characterized as genocidal. This is for two key reasons. First, Israel was aware of the large-scale destruction of the healthcare system, as the World Health Organization (WHO) reported in mid-November that a “public health catastrophe” was developing in Gaza, with 26 of 35 hospitals no longer operational due to Israel’s bombing and siege. Second, Israel knew that its military operations were resulting in a significant number of wounded civilians. Physical trauma is the predominant cause of excess mortality in Gaza, and it was predictable that forcibly

102 Olivier Slow, “WHO says Gaza’s al-Shifa hospital a death zone, as hundreds leave,” BBC, 2023), <https://www.bbc.com/news/world-middle-east-67462615>.

103 Zoe Magee, Matt Gutman and Sami Zayara, “3 premature babies die at Gaza’s Al-Shifa Hospital, doctor says,” ABC News, 2023, <https://abcnews.go.com/International/live-updates/israel-gaza-hamas-war?id=104837945&entryId=104834155#:~:text=At%20least%20three%20premature%20babies,doctor%20working%20at%20the%20hospital>.

104 Sky News, “Gaza’s largest hospital is ‘death zone’ with mass grave at the door - WHO says,” Sky News, 2023, <https://news.sky.com/story/shifa-hospital-in-gaza-is-death-zone-with-mass-grave-at-the-door-who-says-13011309>.

105 Louisa Loveluck et al., “The case of al-Shifa: Investigating the assault on Gaza’s largest hospital,” The Washington Post, 2023, <https://www.washingtonpost.com/world/2023/12/21/al-shifa-hospital-gaza-hamas-israel/>; Middle East Eye, “BBC Verify casts doubt on Israel evidence,” YouTube, 2023, <https://youtu.be/NlBtJh11fw?feature=shared>; Forensic Architecture, “An Assessment of Visual Material Presented by the Israeli Legal Team at the International Court of Justice (ICJ),” Forensic Architecture, 2024, <https://forensic-architecture.org/investigation/assessment-israeli-material-icj-jan-2024>.

106 Chris Lau et al., “November 18, 2023 Israel-Hamas war,” CNN, 2023, <https://edition.cnn.com/middleeast/live-news/israel-hamas-war-gaza-news-11-18-23/index.html>.

107 Vedika Bahl, “IDF found a calendar in Arabic, not a Hamas ‘names list’ at hospital,” France24, 2023, <https://www.france24.com/en/tv-shows/truth-or-fake/20231116-idf-claims-to-find-list-of-hamas-names-but-it-s-the-days-of-the-week-in-arabic>.

suspending services at the largest hospital in Gaza would seriously harm the prospects for survival of the injured, the chronically ill, and newborn babies in incubators. Therefore, by targeting Al-Shifa Hospital, Israel knowingly condemned thousands of sick and displaced Palestinians to preventable suffering and death.<sup>108</sup>

**Simply put, “safe areas” were turned into areas of mass killing.**

As we finalize this article, the WHO has updated its figures. Since October of 2023, Israel has carried out 464 attacks against healthcare facilities, resulting in the deaths of 727 people and injuries to 933 others. Of the 36 hospitals in Gaza, 32 have been damaged. In May of 2024, the Israeli military subjected the Al-Shifa Hospital to a two-week siege, deliberately damaging the emergency department, the maternity and surgical wards, and destroying the oxygen plant.<sup>109</sup> The hospital was transformed into an empty shell, with its courtyards becoming a mass grave, where dismembered bodies were left on the ground. As several UN experts stressed, “at this point, we are no longer discussing availability, accessibility, acceptability and quality of health care received in dignity, but the annihilation of any infrastructure capable of providing basic first aid.” For the Israeli military, Al-Shifa Hospital may have “looked like a regular hospital at a first glance,” but they claimed that “inside and beneath it lurked a much darker secret.” The army rehearsed the trope it used in its November attack, this time employing it while completely destroying the largest medical facility serving Palestinians in Palestine. The reliance on the strategy of treating hospitals as “medical shields”—effectively disregarding their function as indispensable hubs of societal survival for the thousands injured and many more seeking shelter—exposes yet another aspect of the genocidal logic underpinning Israel’s military strategy. This is the use of humanitarian camouflage to justify ‘medicide’—“the destruction of a healthcare system in whole or in part with the aim of obliterating or damaging the conditions needed for saving and sustaining the life of the sick and the wounded.”<sup>110</sup>

## **Genocidal Precautions: Evacuations and Safe Zones**

Taking precautions to protect noncombatants from the effects of legitimate attacks constitutes one of the key principles distinguishing a war fought lawfully from an unlawful total war. A war without precautions and restraints is a war of elimination. Under IHL, parties to a conflict must endeavor to remove the civilian population, individual civilians, and civilian objects under their control from the

108 Nicola Perugini and Neve Gordon, “Medical Lawfare: The Nakba and Israel’s Attacks on Palestinian Healthcare,” *Journal of Palestine Studies* 53, no. 1 (2024): 68-91.

109 World Health Organization, “Six months of war leave Al-Shifa hospital in ruins, WHO mission reports,” WHO, 2024, <https://www.who.int/news/item/06-04-2024-six-months-of-war-leave-al-shifa-hospital-in-ruins-who-mission-reports>.

110 For a definition of ‘medicide’ see Nicola Perugini and Neve Gordon, “Medicide” in *Gaza and International Law: Time for Banning the Bombing of Hospitals* (Institute for Palestine Studies Policy Papers Series, 2024). <https://gazahealthsector.palestine-studies.org/en/node/2684>



vicinity of military objectives.<sup>111</sup> The occupying power may carry out evacuations *without displacing the protected persons outside the occupied territory*; evacuated persons must be returned to their homes at the end of the hostilities.<sup>112</sup> The displaced civilian population, the wounded, and the sick should be protected through the creation of “hospital and safety zones”—also called “safe areas” or “safe zones”—with the aim of facilitating protection, shelter, and humanitarian assistance in the midst of armed conflict. These zones must be “far removed from military operations” and established through agreement between the parties.<sup>113</sup>

The Israeli military has transformed these IHL precautionary measures into an element of its architecture and execution of the Gaza genocide. On October 13, 2023, Israel *unilaterally* issued a mass evacuation order to 1.1 million Palestinians living in the governorates north of Wadi Gaza, including the sick and wounded.<sup>114</sup> The inhabitants were ordered to move within 24 hours to the areas south of Wadi Gaza, which Israel had unilaterally—and deceitfully—declared as a “safe zone.”<sup>115</sup> At least 23 different kinds of leaflets carrying different instructions were dropped from the sky, alongside evacuation orders on social media channels,<sup>116</sup> via SMS<sup>117</sup> and through direct, threatening phone calls to some northern Gaza residents in the following days.<sup>118</sup> This is a long-standing feature of how Israel conducts its military campaigns,<sup>119</sup> deployed in previous offensives in 2008, 2012 and 2014. In most circumstances, these orders have previously been found insufficient<sup>120</sup> to minimize the loss of civilian life.<sup>121</sup> The use of evacuations, combined with the designation of so-called “safe zones,” has intensified in the current military campaign in Gaza.

---

111 Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I) 1977, Article 58(1).

112 Geneva Convention Relative to the Protection of Civilian Persons in Time of War 1949, Article 49.

113 *Id.*

114 Al-Mezan Centre for Human Rights, “URGENT: Israel’s Evacuation Order to 1.1 Million Palestinians in Gaza is Direct Forcible Transfer, Urgent Intervention is Needed,” Al-Mezan Centre for Human Rights, 2023, <https://mezan.org/public/en/post/46287>.

115 *Id.*, Al-Mezan Centre for Human Rights, “No Safe Place: Despite ‘Evacuation Order,’ Israel Continues to Carpet-Bomb Gaza From North To South,” Al-Mezan Centre for Human Rights, 2023, <https://mezan.org/en/post/46293>.

116 See Avichay Adraee, IDF Spokesperson for Arabic Media, on X at <https://x.com/AvichayAdraee?s=20>.

117 Raja Abdulrahim, “Gaza’s Hospitals Face ‘Impossible’ Choices With Israel Evacuation Order,” *The New York Times*, 2023, <https://www.nytimes.com/2023/10/15/world/middleeast/israel-gaza.html>.

118 Alice Cuddy, “I’m calling from Israeli intelligence. We have the order to bomb. You have two hours,” BBC, 2023, <https://www.bbc.com/news/world-middle-east-67327079>.

119 UN Human Rights Council, “Human Rights in Palestine and Other Occupied Arab Territories,” (2009) UN Doc A/HRC/12/48, para 499-543; Al-Haq, “Israeli Military Drops Warning Leaflets on the Gaza Strip,” Al-Haq, 2012, <https://www.alhaq.org/monitoring-documentation/6818.html>.

120 UN Human Rights Council, “Human Rights in Palestine and Other Occupied Arab Territories,” (2009) UN Doc A/HRC/12/48, para 537-543; UN Human Rights Council, “Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1” (2013) UN Doc A/HRC/22/35/Add. 1, para 46.

121 Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I) 1977, Article 57(2)(c); International Committee of the Red Cross, “Rule 15. Principle of Precautions in Attack,” ICRC, 2024, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule15>; International Committee of the Red Cross, “Rule 16. Target Verification,” ICRC, 2024, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule16>; International Committee of the Red Cross, “Rule 17. Choice of Means and Methods of Warfare,” ICRC, 2024, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule17>; International Committee of the Red Cross, “Rule 18. Assessment of the Effects of Attacks,” ICRC, 2024, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule18>; International Committee of the Red Cross, “Rule 19. Control during the Execution of Attacks,” ICRC, 2024, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule19>; International Committee of the Red Cross, “Rule 20. Advance Warning,” ICRC, 2024, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule20>; International Committee of the Red Cross, “Rule 21. Target Selection,” ICRC, 2024, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule21>.

Immediately after the evacuation orders and the transformation of southern Gaza into an ostensible “safe zone,” Israel illegally framed the inhabitants of northern Gaza who decided to remain in the designated evacuation area, or were unable to leave it (including the sick and wounded), as presumed ‘terrorists’ by location, “voluntary human shields,”<sup>122</sup> and “accomplices” of terrorism.<sup>123</sup> This policy points to the intent of transforming hundreds of thousands of civilians who remained in northern Gaza—the overwhelming majority of them women, children, and the elderly—into legitimate military targets through the use of evacuation orders that were impossible to follow. This categorization deprived the population of northern Gaza of their status as protected civilians under IHL. Additionally, the evacuation order included the blanket evacuation of 22 hospitals in the north, revealing a clear genocidal intent by putting the lives of more than 2,000 patients at risk and depriving the hundreds of thousands of Palestinians who remained of life-sustaining services.<sup>124</sup>

The erasure of civilian protections in the evacuated area was combined with the indiscriminate targeting of evacuees and the inhabitants of areas designated as safe zones. Since the beginning of its assault, Israel bombarded the so-called “safe zones” with weaponry intended to maximize civilian casualties.<sup>125</sup> Of the roughly 500 American-supplied 2,000-pound bombs that Israel dropped over the Gaza Strip during the first six weeks of the hostilities, 208 (42%) were used in the southern areas, which were designated as safe zones.<sup>126</sup> In addition, the south of Gaza was targeted with other munitions from the air, sea, and land, as the level of destruction of civilian areas in the safe zones during the same period reveals.<sup>127</sup> This denotes a clear intent to kill and displace on a mass scale in areas Israel had unilaterally defined as places of humanitarian protection. By October 28, two weeks after the evacuation order, 38% of the overall Palestinians killed in Gaza were in the safe areas south of Wadi Gaza (the line of “safety” that Israel had traced to separate

122 Israeli Defence Forces, “The IDF continues the effort to move the residents of the Gaza,” IDF, 2023, <https://www.idf.il/en/mini-sites/hamas-israel-war-24/war-on-hamas-2023-resources/the-idf-continues-the-effort-to-move-the-residents-of-the-gaza/>; Israeli Defence Forces, “The Safe Way – Civilian Mobility,” Al Mezan, 2024, <https://www.mezan.org/uploads/files/2024/1/17096645765%20november.jpeg>.

123 Reuters, “Israel tells Gazans to move south or risk being seen as ‘terrorist’ partner,” Reuters, 2023, <https://www.reuters.com/world/middle-east/israel-tells-gazans-move-south-or-risk-being-seen-terrorist-partner-2023-10-22/>; Israeli Defense Army, “Urgent Warning to the Residents of the Gaza Strip,” Al Mezan, 2024, [https://www.mezan.org/uploads/files/2024/1/1709664576signal-2023-10-22-030620\\_002.jpeg](https://www.mezan.org/uploads/files/2024/1/1709664576signal-2023-10-22-030620_002.jpeg); Jason Burke, “The destruction is massive ... It’s a disaster area: Israeli soldiers speak about fighting in Gaza,” The Guardian, 2024, [https://www.theguardian.com/world/2024/feb/08/israeli-soldiers-idf-gaza-fighting-disaster-area?CMP=share\\_btn\\_tw](https://www.theguardian.com/world/2024/feb/08/israeli-soldiers-idf-gaza-fighting-disaster-area?CMP=share_btn_tw).

124 World Health Organization, “Evacuation orders by Israel to hospitals in northern Gaza are a death sentence for the sick and injured,” WHO, 2023, <https://www.who.int/news/item/14-10-2023-evacuation-orders-by-israel-to-hospitals-in-northern-gaza-are-a-death-sentence-for-the-sick-and-injured>.

125 Tamara Qiblawi et al., “Not seen since Vietnam: Israel dropped hundreds of 2,000-pound bombs on Gaza, analysis shows,” CNN World, 2023, <https://edition.cnn.com/gaza-israel-big-bombs/index.html>.

126 *Id.*; Robin Stein et al., “A Times Investigation Tracked Israel’s Use of One of Its Most Destructive Bombs in South Gaza,” *The New York Times*, 2023, <https://www.nytimes.com/2023/12/21/world/middleeast/israel-gaza-bomb-investigation.html#:~:text=During%20the%20first%20six%20weeks,by%20The%20New%20York%20Times>.

127 UN Office for the Coordination of Humanitarian Affairs, “Hostilities in the Gaza Strip and Israel - reported impact | Day 34,” OCHA, 2023, <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-reported-impact-day-34>; Shelter Cluster, “oPt – Gaza Strip / Damage affected areas – As of 26 October 2023,” Shelter Cluster, 2023, [https://sheltercluster.s3.eu-central-1.amazonaws.com/public/docs/gsc\\_opt\\_gaza%20strip\\_damage%20affected%20areas\\_27october2023\\_a1.pdf?VersionId=bTM7V0mIjzKDudKwJL8Dvy1Kdt2uy4kZs](https://sheltercluster.s3.eu-central-1.amazonaws.com/public/docs/gsc_opt_gaza%20strip_damage%20affected%20areas_27october2023_a1.pdf?VersionId=bTM7V0mIjzKDudKwJL8Dvy1Kdt2uy4kZs); Al-Haq, “Initial reporting on the ongoing Israeli retaliatory attacks on Gaza (Reporting Period, 7-28 October 2023)” (Al-Haq, 2023) <<https://www.alhaq.org/advocacy/22044.html>>.

# The pattern of killing Palestinian civilians displaced from northern Gaza to the south, combined with statements from senior Israeli officials declaring an intent to forcibly displace Palestinians outside Gaza and replace them with Israeli settlers “returning” to the Strip, clearly reveal the settler colonial genocidal nature of the humanitarian camouflage.

north from the south of Gaza).<sup>128</sup> By November 20, 34% of the overall Palestinians killed in Gaza were in the safe area south of Wadi Gaza.<sup>129</sup> And by January 22, 42% of the overall fatalities of Israel’s operation were located south of Wadi Gaza, where the majority of the population had evacuated to in the preceding months.<sup>130</sup> Simply put, “safe areas” were turned into areas of mass killing.

The combined use of evacuations and safe zones resulted in a technology of organized violence and genocide.<sup>131</sup> This also emerges from Israel’s militarization of the “humanitarian corridors” it instructed the population to use in order to evacuate and reach the safe areas. In contrast with the humanitarian rhetoric used to present these “safe routes” to the international public,<sup>132</sup> these corridors were systematically targeted with bombardment, shelling, and sniper fire

to obstruct the evacuations.<sup>133</sup> They were thus transformed into “death corridors,” where the evacuees were killed, or arbitrarily arrested, detained, and tortured.<sup>134</sup>

- 128 UN Office for the Coordination of Humanitarian Affairs, “Hostilities in the Gaza Strip and Israel - reported impact | Day 22,” OCHA, 2023, <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-reported-impact-day-22>.
- 129 UN Office for the Coordination of Humanitarian Affairs, “Hostilities in the Gaza Strip and Israel - reported impact | Day 45,” OCHA, 2023, <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-reported-impact-day-45>.
- 130 Daniele Grasso, Yolanda Clemente Pomedá and Antonio Pita, “25,000 deaths in Gaza: Why the destruction of this war exceeds that of other major conflicts,” El País, 2024, <https://english.elpais.com/international/2024-01-22/25000-deaths-in-gaza-why-the-destruction-of-this-war-exceeds-that-of-other-major-conflicts.html?outputType=amp#>.
- 131 Nicola Perugini, “Safe zones: Israel’s technologies of genocide,” Al Jazeera, 2024, <https://aje.io/ri0pa4>.
- 132 UN Office for the Coordination of Humanitarian Affairs, “Hostilities in the Gaza Strip and Israel | Flash Update #8,” OCHA, 2023, <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-8>; Bethan McKernan and Sufian Taha, “Gaza civilians afraid to leave home after bombing of ‘safe routes,’” The Guardian, 2023, <https://www.theguardian.com/world/2023/oct/14/gaza-civilians-afraid-to-leave-home-after-bombing-of-safe-routes>; NBC News, ‘70 killed after convoys of evacuees in Gaza hit by Israeli airstrikes’ (NBC News, 2023) <<https://www.nbcnews.com/news/world/live-blog/israel-hamas-war-live-updates-rcna120252>>.
- 133 Action Against Hunger et al., “Pauses, Corridors, and Safe Zones in Gaza: Rhetoric vs. Reality,” Relief Web, 2023, <https://reliefweb.int/report/occupied-palestinian-territory/pauses-corridors-and-safe-zones-gaza-rhetoric-vs-reality>; Peter Andringa, Sam Joiner and Mehul Srivastava, ‘Did Israel bomb a civilian evacuation route in Gaza?’ (The Financial Times, 2023) <<https://www.ft.com/content/95c5fcf1-c756-415f-85b8-1e4bbff24736>>.
- 134 Linah Alsaafin and Maram Humaid, “‘Death corridor’: The al-Samounis recall terror of ‘safe passage’ in Gaza,” Al Jazeera, 2023, <https://www.aljazeera.com/news/2023/12/3/death-corridor-the-al-samounis-recall-terror-of-safe-passage-in-gaza>; Euro-Med Human Rights Monitor, ‘Israel uses its ‘safe corridor’ in Gaza as trap to murder and detain Palestinians fleeing Israeli violence’ (Euro-Med Human Rights Monitor, 2023) <<https://euromedmonitor.org/en/article/5932/Israel-uses-its-%E2%80%98safe-corridor%E2%80%99-in-Gaza-as-trap-to-murder-and-detain-Palestinians-fleeing-Israeli-violence>>.

By the end of November 2023, the death toll of the war had reached 15,000 Palestinians.<sup>135</sup> Responding to mounting international criticism, the Israeli military re-configured its evacuation mechanisms by introducing a new “humanitarian” tool: the “evacuation grid” system.<sup>136</sup> The Israeli military published a grid map on social media, dividing the Gaza Strip into 600 blocks and indicating which areas were supposed to be “evacuated” and which were “safe.”<sup>137</sup> Instead of increasing areas of safety for civilians, this system—deployed while Gaza was cut off from all forms of communication by the Israeli military<sup>138</sup> and its residents in significant panic—increased the level of chaos and death.<sup>139</sup> From early-December of 2023, Israel routinely ordered Palestinian civilians in these areas to move to new zones designated as “safe” according to the grid. Immediately afterward, the areas of southern Gaza where Palestinians were instructed to flee were targeted by the Israeli military.<sup>140</sup>

The use of evacuations and safe zones as genocidal tools is confirmed when the mass killing of both civilians who stayed in the north of Gaza and those who evacuated to the south is combined with Israel’s declared intent to forcibly displace Palestinians outside Gaza<sup>141</sup> and replace them with Israeli settlers. Simultaneously with the implementation of the evacuations and safe zones, Israel’s Prime Minister advocated for ethnic transfer;<sup>142</sup> Israel’s Finance Minister expressed support for the expulsion of 2 million Palestinians from Gaza;<sup>143</sup> Israel’s Minister of National Security declared that the war is an opportunity to “concentrate on encouraging the migration of the residents of Gaza”;<sup>144</sup> Israel’s Minister of Communications revealed

135 UN Office for the Coordination of Humanitarian Affairs, “Hostilities in the Gaza Strip and Israel | Flash Update #53,” OCHR, 2023, <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-53>.

136 Emma Graham-Harrison and Jason Burke, “Israeli grid maps make life in Gaza ‘macabre game of Battleships,’ say aid workers,” *The Guardian*, 2024, <https://www.theguardian.com/world/2023/dec/02/israeli-grid-system-makes-life-in-gaza-macabre-game-of-battleships-say-aid-workers>.

137 David Gritten, “Israel’s new Gaza evacuation zones leave Palestinians few places to go,” *BBC News*, 2023, <https://bbc.com/news/world-middle-east-67630489>.

138 Save the Children, “Complete communication blackout for four days and counting makes aid distribution in Gaza near impossible,” *Save the Children*, 2023, [https://edition.cnn.com/2024/01/18/middleeast/gaza-communications-blackout-one-week-israel-amas-intl/index.html](https://www.savethechildren.net/news/complete-communication-blackout-four-days-and-counting-makes-aid-distribution-gaza-near-#:~:text=Gaza%2C%2017%20December%202023%20%2D%20The,Rafah%2C%20says%20Save%20the%20Children; Mick Krever, Sana Noor Haq, Eyad Kourdi and Celine Alkhalidi, “Gaza communications blackout, the longest of the war, hits one-week mark,” <i>CNN World</i>, 2024, <a href=); Anushka Patil, “Gaza is facing yet another communications blackout,” *The New York Times*, 2024, <https://www.nytimes.com/2024/01/12/world/middleeast/gaza-communications-blackout-israel.html>.

139 Arafat Barbakh and Mohammed Salem, “Israel presses ground offensive in southern Gaza, air strikes intensify,” *Reuters*, 2023, <https://www.reuters.com/world/middle-east/israel-says-ground-forces-operating-across-gaza-strip-offensive-builds-2023-12-04/>.

140 Reuters, “Israel orders Gazans to flee, bombs where it sends them,” *YouTube*, 2024, <https://youtu.be/JlGmwCMETMs?feature=shared>; Arafat Barbakh and Mohammed Salem, “Israel presses ground offensive in southern Gaza, air strikes intensify,” *Reuters*, 2023, <https://www.reuters.com/world/middle-east/israel-says-ground-forces-operating-across-gaza-strip-offensive-builds-2023-12-04/>.

141 Violation of Article 49 of the Geneva Conventions. See Geneva Convention Relative to the Protection of Civilian Persons in Time of War 1949, Article 49.

142 Ariel Kahana, “העוצרה מיתוע לש וצורם הרגילה מילעופ: הדינת” [Netanyahu: Working for Voluntary Emigration of Gazans from Gaza], *Israel Hayom*, 2023, <https://www.israelhayom.co.il/news/geopolitics/article/15002089>; TRT World, “Live blog: Netanyahu reportedly pushes for ‘voluntary migration’ from Gaza,” *TRT World*, 2023, <https://www.trtworld.com/middle-east/live-blog-netanyahu-reportedly-pushes-for-voluntary-migration-from-gaza-16382395>.

143 Reuters, “Israeli minister calls for voluntary emigration of Gazans,” *Reuters*, 2023, <https://www.reuters.com/world/middle-east/israeli-minister-calls-voluntary-emigration-gazans-2023-11-14/>; Sam Sokol and Jacob Magid, “Smotrich doubles down on resettlement of Gazans, rejecting US criticism,” *The Times of Israel*, 2024, <https://www.timesofisrael.com/smotrich-doubles-down-on-resettlement-of-gazans-rejecting-us-criticism/>.

144 Sam Sokol, “Ben Gvir: War an opportunity to encourage migration from Gaza,” *The Times of Israel*, 2024, [https://www.timesofisrael.com/liveblog\\_entry/ben-gvir-war-an-opportunity-to-encourage-migration-from-gaza/](https://www.timesofisrael.com/liveblog_entry/ben-gvir-war-an-opportunity-to-encourage-migration-from-gaza/).

# Israel has appropriated and distorted the language and concepts of international humanitarian law to disguise its genocidal assault on Gaza as a lawful self-defensive war, purportedly fought with humanitarian efforts to spare the very civilian population that high-ranking Israeli officials framed as a mass of legitimate targets.

that the expulsion of the evacuated Palestinians outside Gaza is discussed “at government meetings”;<sup>145</sup> and at the end of January 2024, 12 Israeli ministers joined a conference for the re-colonization of Gaza and the expulsion of its inhabitants, organized by settler groups.<sup>146</sup> The combination of evacuation orders and safe zones has functioned as a system that, by killing and displacing the population towards the south of the Gaza Strip and the border with Egypt, facilitates the implementation of these depopulation and replacement plans. The history of colonial genocides is a repository of similar practices.

From the end of December into January and February of 2024, the Israeli offensive further intensified in the “safe areas” of Al Muwasi and Rafah, near the border with Egypt, where the majority of Gaza’s displaced population sought shelter.<sup>147</sup> Notably,

these assaults continued even after the International Court of Justice issued a preliminary measures order, demanding that Israel “take[s] all measures within its power” to prevent acts of killing, causing serious bodily or mental harm, imposing measures intended to prevent births, and deliberately inflicting conditions of life calculated to bring about the physical destruction *of the group* in whole or in part.<sup>148</sup> Instead, Israel committed massacres with reinforced intent, resulting in many of the acts the Court had ordered them to prevent. By early-February of 2024, Rafah had become the most overcrowded governorate in the Gaza Strip,

145 Matt Shuham and Daniel Marans, “Israeli Cabinet Minister Adds To Calls For ‘Voluntary Emigration’ From Gaza,” The Huffington Post, 2024, [https://www.huffingtonpost.co.uk/entry/israeli-cabinet-minister-says-war-will-lead-to-emigration-from-gaza\\_uk\\_659fa54de4b0fdb2bc05cc78](https://www.huffingtonpost.co.uk/entry/israeli-cabinet-minister-says-war-will-lead-to-emigration-from-gaza_uk_659fa54de4b0fdb2bc05cc78).

146 Nir Hasson and Rachel Fink, “Netanyahu Ministers Join Thousands of Israelis in ‘Resettle Gaza’ Conference Calling for Palestinians’ Transfer,” Haaretz, 2024, <https://www.haaretz.com/israel-news/2024-01-28/ty-article/ministers-from-netanyahus-party-join-thousands-of-israelis-at-resettle-gaza-conference/0000018d-512f-dfdc-a5ad-db7f35e10000>.

147 Mahin Jobain, Wafaa Shurafa and Samy Magdy, “Israeli military says Gaza ground offensive has expanded into urban refugee camps,” Associated Press News, 2024, [https://apnews.com/article/israel-hamas-war-news-12-26-2023-698c895797ccb057d13fe4f68690c98b?utm\\_source=copy&utm\\_medium=share](https://apnews.com/article/israel-hamas-war-news-12-26-2023-698c895797ccb057d13fe4f68690c98b?utm_source=copy&utm_medium=share); Save the Children, “No safe place in Gaza: 14 killed, mostly children, by Israeli airstrikes near so-called ‘humanitarian zone’ Al-Mawasi,” Save the Children, 2024, <https://www.savethechildren.net/news/no-safe-place-gaza-14-killed-mostly-children-israeli-airstrikes-near-so-called-humanitarian>; Amnesty International UK, “Israel/OPT: fresh evidence of probable war crimes in Israeli attacks on Rafah,” Amnesty International UK, 2024, <https://www.amnesty.org.uk/press-releases/israelopt-fresh-evidence-probable-war-crimes-israeli-attacks-rafah>; Nidal Al-Mughrabi and Emily Rose, “Israel frees two hostages, Palestinian TV says 74 killed in assault,” Reuters, 2024, <https://www.reuters.com/world/middle-east/israel-strikes-rafah-refugee-camp-22-killed-local-health-officials-say-2024-02-12/>.

148 *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip* (South Africa v. Israel) (Request for the Indication of Provisional Measures: Order) [2024] ICJ, para 86.



with “an average density of over 22,200 [people] per square kilometer, five times its pre-conflict levels”<sup>149</sup> Palestinians were ordered to flee to these areas despite the lack of safe passage. By mid-February, 1.5 million Palestinians were amassed in 64 square kilometers in Rafah Governorate. The bombardments of these “safe areas” included the targeting of schools hosting displaced Palestinians from other areas of Gaza,<sup>150</sup> as well as hospitals and medical facilities.<sup>151</sup> In May of 2024, the Israeli military attacked the “safe zone” of Rafah—what the U.S. administration had defined as a red line in Israel’s war of annihilation. Yet, the U.S. administration remained silent. As of the writing of this article, more than one million displaced Palestinians have been expelled from Rafah, while those who remain are being subjected to another siege.

The pattern of killing Palestinian civilians displaced from northern Gaza to the south, combined with statements from senior Israeli officials declaring an intent to forcibly displace Palestinians outside Gaza and replace them with Israeli settlers “returning” to the Strip, clearly reveal the settler colonial genocidal nature of the humanitarian camouflage. Legal techniques and tools, such as evacuations and the designation of “safe humanitarian areas,” have been transformed into genocidal mechanisms inflicting permanent displacement on Palestinians, rendering Gaza uninhabitable and transforming Gaza’s Palestinians into a population of survivors constantly on the run, being bombed into smaller and smaller areas.

## Conclusions

In this article, we have analyzed how Israel has appropriated and distorted the language and concepts of international humanitarian law to disguise its genocidal assault on Gaza as a lawful self-defensive war, purportedly fought with humanitarian efforts to spare the very civilian population that high-ranking Israeli officials framed as a mass of legitimate targets. For the first time since the promulgation of the Genocide Convention and the four Geneva Conventions, a genocide with distinctive settler colonial features has been presented by its perpetrators as IHL-abiding. This crucial characteristic of Israel’s annihilation campaign has remained obscured in the Western scholarly debate, which has focused almost exclusively on the genocidal implications of starvation as a method of warfare, largely neglecting how Israel’s conduct of hostilities and its justifications have concealed genocidal plans and patterns of genocidal attacks.

The Genocide Convention and the four Geneva Conventions are part of the same legal architecture, simultaneously protecting civilians in war and groups from annihilation. Israel’s humanitarian camouflage in Gaza reveals the fragility of this

---

149 Norwegian Refugee Council, “Gaza: Israel’s military operation in Rafah would be fatal for displaced civilians and humanitarian aid,” NRC, 2024, <https://www.nrc.no/news/2024/february/gaza-israels-military-operation-in-rafah-would-be-fatal-for-displaced-civilians-and-humanitarian-aid/>.

150 UN Office for the Coordination of Humanitarian Affairs, “Hostilities in the Gaza Strip and Israel | Flash Update #106,” OCHA, 2024, <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-106>.

151 UN Office for the Coordination of Humanitarian Affairs, “Hostilities in the Gaza Strip and Israel | Flash Update #101,” OCHA, 2024, <https://reliefweb.int/report/occupied-palestinian-territory/hostilities-gaza-strip-and-israel-flash-update-101-enarhe>.



architecture in the context of Palestine. The law of armed conflict has offered Israel a range of lawful killing categories which, when distorted to maximize the killing of civilians, have proved to lend themselves to accelerate the erasure of Palestinians by framing them as a continuum of military objectives. In this way, the law of armed conflict has morphed into a ‘law of armed genocide,’ a vocabulary of legalization for genocidal means and methods of warfare. Through this operation and its Western validations, IHL has become the antithesis of the Genocide Convention, transforming the existence and survival of the civilian population into variables dependent on and subordinate to the occupying power’s military necessities. By means of this operation, which we have termed “humanitarian camouflage,” Israel has also inverted the nexus of complementary protection between IHL and the prohibition of genocide, which is intended to safeguard both individual civilians and populations as groups. The Genocide Convention and the Geneva Conventions have been twisted in a relationship of mutual permission, whereby the legalization of war crimes allows for the pursuit of the destruction of the protected group, by elevating their commission to military policy.

Some authors have misleadingly suggested that the existence of “tactical or strategic reasons other than an intent to destroy the Palestinian people ‘as such,’ such as military necessity, force protection, or deterrence”<sup>152</sup> behind the patterns of exterminatory attacks on Gaza civilians would be sufficient to exclude genocidal intent in the legal sense. This argument completely disregards the crucial fact that military necessities themselves have been construed by Israel as justifying and ultimately requiring a conduct of war leading to the destruction of Palestinians as a group until all the war aims are achieved. The application of the Genocide Convention would be completely compromised if genocidal intent were to be inferred only from explicit declarations of the destruction of the victim group as the sole and ultimate purpose of the perpetrators. This is not supported by existing jurisprudence from international tribunals. In fact, no genocide in history has ever conceived the destruction of the victim group as an end in itself. Genocide perpetrators have always perceived genocide, rather, as a necessary means, one they were forced to adopt as course of action to achieve further, compelling, ‘superior’ ideological aims, such as the protection of the race, the long-term security of the nation, or the survival of the genocide perpetrators’ group.

These attempts to obscure genocide by reducing Israel’s eliminationist conduct of war to other international crimes fail to see beyond the screen of Israel’s humanitarian camouflage. They fail to recognize that, in the capsized version of international humanitarian law that Israel has developed to fend off accountability, it has institutionalized the deliberate killing of masses of protected members of the group and the systematic destruction of all the infrastructures sustaining and supporting the group’s collective life. This has subjected the inhabitants of Gaza to levels of bodily and mental harm unprecedented in Palestinian history. Mass murder and mutilation have been perpetrated in the context of a state policy of

---

152 Cohen-Shany, “Selective Use of Facts and the Gaza Genocide Debate,” *Just Security*, 2 January 2024, <https://www.justsecurity.org/90939/selective-use-of-facts-and-the-gaza-genocide-debate/>.

protracted siege and starvation,<sup>153</sup> inflicting conditions of life calculated to bring about the group's destruction, while portraying them as compatible with IHL rules.

Israel's genocidal intent is inscribed in its strategies of humanitarian camouflage. To detect Israel's genocidal intent, we must decipher how Israel has codified policies of elimination and destruction into a liberal, IHL-mimicking vernacular.

---

153 Michael Fakhry, "Starvation and the right to food, with an emphasis on the Palestinian people's food sovereignty," United Nations, July 2024, <https://documents.un.org/doc/undoc/gen/n24/212/30/pdf/n2421230.pdf>.



# HUMANITARIAN CAMOUFLAGE: ISRAEL REWRITES THE LAWS OF WAR TO LEGITIMIZE GENOCIDE IN GAZA

LUIGI DANIELE, NICOLA PERUGINI, FRANCESCA ALBANESE

THE INSTITUTE FOR PALESTINE STUDIES presents you with its latest instalment of Current Issues in Depth. The authors examine Israel's use of international humanitarian law (IHL) to justify actions in Gaza that amount to genocide. They contend that Israel's settler-colonial agenda systematically strips Palestinians of their rights, transforming Gaza into a site of extreme violence, segregation, and mass annihilation. The authors discuss how Israel's tactics include mass expulsions, destruction of civilian infrastructure, and the use of distorted legal discourse to present these actions as compliant with IHL, despite their genocidal nature. They show that the appropriation of IHL serves as a legal-political strategy to mask atrocities while framing Gaza's Palestinian population as a "terrorist" group to be eliminated. Ultimately, this installment raises urgent concerns about how such

## CURRENT ISSUES IN DEPTH

مؤسسة الدراسات الفلسطينية  
Institute for Palestine Studies

3501 M Street N.W., Washington, D.C. 20007  
[www.palestine-studies.org](http://www.palestine-studies.org)