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EUROPEAN UNION SPECIAL REPRESENTATIVE FOR HUMAN RIGHTS

Note to the HRVP - Situation in the Middle East
11 November 2024

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The mandate of the EUSR for Human Rights is based on the policy objectives of i.a. enhancing the Union's effectiveness in protecting and promoting human rights in the world and of improving the coherence of Union action on human rights. The EUSR contributes to promoting compliance with international humanitarian law (IHL) and support for international criminal justice, and can for that purpose provide input to the formulation of EU policies.

This paper seeks to foster a common understanding of the situation in Israel / Palestine / Lebanon on the basis of applicable international law, relying entirely on assessments made by independent international institutions. It updates the paper which was shared ahead of the Foreign Affairs Council of 22 July 2024.

The Office of the EUSR for Human Rights has no dedicated capacity to assess the situation on the ground. This paper therefore relies entirely on assessments made by the International Court of Justice (ICJ), the Office of the High Commissioner for Human Rights (OHCHR), the Office of the Prosecutor of the International Criminal Court (ICC), the UN Secretary General's Special Representative for Children and Armed Conflicts (SRSG CAAC), and other UN bodies. It aims to identify applicable norms of International Human Rights Law (IHRL) and International Humanitarian Law (IHL), and to summarise the independent assessments made by the abovementioned institutions as regards possible violations by all duty bearers in Palestine, Israel and Lebanon of their obligations under IHRL and IHL. Referring i.a. to the July 2024 ICJ Advisory opinion, the paper also touches upon the obligations of all States under international law, including not to aid or assist violations. The paper does not include any value judgment by the EUSR or the EU.

ICJ, ICC, OHCHR, UN SRSG CAAC, as well as UNRWA, Israeli freed hostages and civil society in Brussels have been consulted for the purpose of this paper. Requests for the EUSR to visit Israel and the OPT are pending.

INTRODUCTION

1. For over 56 years, the West Bank, including East Jerusalem, and Gaza have remained under Israeli occupation. According to the UN (including ICJ¹ and OHCHR²), Israeli policies and practices related to occupation and settlement expansion involve numerous human rights violations against Palestinians, including their rights to self-determination, equality and non-discrimination. All the while, hostilities regularly escalated between Palestinian armed groups, firing rockets into Israel in varying degree of intensity, and Israeli Defense Forces. In 2023, observers warned of the complex and fragile situation in Palestine, as the human rights situation continued to deteriorate against the backdrop of increased settlement expansion. Negative trends of discrimination, oppression and violence against Palestinians were reported to accelerate while space for civil society shrank, in an overall climate of impunity. After the 7 October 2023 terrorist attacks by Palestinian armed groups in Israel, **the situation drastically deteriorated in the Occupied Palestinian Territory (OPT), notably in war-torn Gaza**, where Israel has since been conducting a large scale military operation, involving the use of weapons with wide area effects in densely-populated areas and severe restrictions on the entry and distribution of essential goods and services. Since 7 October 2023, tensions also escalated between Israel on the one hand and, on the other, Hezbollah and other Iran-backed armed groups in Lebanon and Syria, but also with Iran. After months of exchanges of cross-border air strikes, Israel launched an intense military campaign in **Lebanon**, ongoing since September 2024.

2. OHCHR continued monitoring of the situation in Israel and the OPT indicates that **all duty bearers** have committed violations of international human rights law (IHRL) and international humanitarian law (IHL), some potentially amounting to international crimes, in a prevailing climate of **impunity**. Very serious allegations of such violations **by Israel** have been made by legitimate, independent and impartial bodies, such as the International Court of Justice (ICJ), the UN Office of the High Commissioner for Human Rights (OHCHR), the Office of the Prosecutor of the International Criminal Court (ICC), the UN Secretary General (incl. Annual Report on Children and Armed Conflict – hereinafter “2024 CAAC Report”) and UN agencies). OHCHR and UN agencies have also expressed concerns about Israel’s compliance with IHRL and IHL principles in the conduct of its ongoing military operation in Lebanon.

3. **War has rules**. Their paramount aim is to effectively protect human life and dignity. IHL principles of humanity, distinction, proportionality and military necessity intend to protect and preserve civilian life and health. Given the high level of civilian casualties and human suffering, allegations focus mainly on how duty bearers, including the Israeli Defence Forces (IDF), have seemingly failed to distinguish **between civilians and combatants** and to take all feasible **precautions** to protect civilians and civilian objects against the effects of the attacks, in **violation of the fundamental principles of IHL**.

4. Under the UN Charter, all UN Member States are required to fulfil their Charter obligations in good faith, to cooperate, respect and support the work of UN organs, including the ICJ, as the principal judicial organ of the UN. It is incumbent on all members of the international community to

¹ ICJ, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion (“*Wall Advisory Opinion*”), ICJ Reports 2004, p. 136; ICJ, *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem*, Advisory Opinion (“*Policies & Practices Advisory Opinion*”).

² UN Human Rights Council, Report of the United Nations High Commissioner for Human Rights, “[Human rights situation in the Occupied Palestinian Territory, including East Jerusalem, and the obligation to ensure accountability and justice](#)” (“2024 HCHR Accountability and Justice Report”), A/HRC/55/28, 13 February 2024; UN Human Rights Council, Report of the United Nations High Commissioner for Human Rights, “Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan”, [A/HRC/55/72](#), 1 February 2024.

uphold it, to support the accountability system and to consistently address blatant disregard for international law, including binding decisions of the Security Council and orders of the ICJ.

5. The European Union's commitment to effective multilateralism, with the UN at its core, is a central element of the EU's external policy, while a principled defence of human rights and the rule of law in EU foreign policy is enshrined in EU treaties. The EU is the most vocal and committed global advocate of the rule-based international order. In the context of the ongoing crisis, EU's continued and repeated calls for respect for IHL, restraint, the release of hostages, ceasefires, humanitarian access, independent investigations and accountability have not been heeded.

SUMMARY

Prior to 7 October 2023 attacks, the situation in the West Bank was grave and extremely volatile, with record high numbers of incidents and violations. In Gaza, the humanitarian situation has been serious for years, due to Israel's closure of the Strip, which has been affecting all areas of life. Since 7 October 2023 attacks and the ensuing escalation of hostilities, the situation has drastically deteriorated throughout the OPT, all the more so in war-torn Gaza.

More than a year after 7 October 2023 terrorist attack by Palestinian armed groups in Israel, **Hamas** still holds 97 **hostages** in Gaza. Taking of hostages constitutes a **violation of IHL** and a **war crime**. Holding hostages in densely populated areas exposes civilians at heightened risk of attack and may also amount to a war crime.

Rockets are inherently indiscriminate projectiles, prohibited under IHL. Their use by **Hamas** and **Hezbollah** violates IHL and may constitute a war crime.

In October 2024, the Integrated Food Security Phase Classification (IPC)³ projects that, **within 6 months, 91 % of Gaza population** (ca. 2 million people) will be facing high levels of acute **food insecurity**. In November 2024, UN organisations warn that due to Israel's siege, sustained bombardments and other attacks on **North Gaza**, including on health facilities and places of shelter, ongoing for a month, **the entire Palestinian population in North Gaza is at imminent risk of dying from disease, famine and violence**.⁴ On 8 November, stressing that the extreme gravity and sharp deterioration of the situation required an **"extremely urgent response"**, IPC issued a Famine Review Committee Alert calling on all parties who are directly taking part in the conflict, or have influence on its conduct, to **"take immediate action, within days not weeks"**, to avert and alleviate the humanitarian catastrophe.

OHCHR monitoring indicates that the **"unprecedented level of killing and injury of civilians"** in Gaza was **"a direct consequence of the Israeli Defense Forces' (IDF) failure to comply fundamental principles of IHL"**, *i.e.* the principles of distinction, proportionality and precautions in attack. According to OHCHR⁵, of the verified Palestinian deaths caused by attacks on residential buildings in Gaza, **44% were children** – mainly young children and babies. The **population pyramid** (age and sex) of OHCHR-verified fatalities closely resembles that of Gaza's population at large, which points to **indiscriminate attacks**. When committed intentionally, violations of the IHL principles may amount to **war crimes**. When committed as part of a widespread or systematic attack against a civilian population, pursuant to a State or organisational policy, they may also implicate **crimes against humanity**.

Given the documented scale of destruction and damage to infrastructures and services, **Israel's continued denial and disruption of humanitarian assistance**, in a context of its blockade and siege of Gaza and closures of crossing points, may, according to *i.a.* OHCHR and the ICC Prosecutor, amount to **wilful killing or causing great suffering or serious injury to body or health, or using starvation as a method of warfare**, which also constitute **atrocity crimes**. Those actions and omissions by Israel are also in violation of Israel's obligations under **ICJ Orders for provisional measures**. Israel's repeated **attacks on UNRWA** and the campaign against it (including recently adopted legislation) risk further deteriorating the humanitarian situation in the OPT.

³ IPC, GAZA STRIP: [IPC Acute Food Insecurity Special Snapshot | September 2024 - April 2025](#), 17 October 2024.

⁴ [Statement by Principals of the Inter-Agency Standing Committee](#), 1 Nov. 2024.

⁵ OHCHR, Update Report, "Six-month update report on the human rights situation in Gaza: 1 November 2023 to 30 April 2024", 8 November 2024 ("*OHCHR Nov. 2024 Update Report*").

Hospitals and medical facilities, medical staff, the wounded and sick, and their means of transport are entitled to special protective status under IHL. Since the escalation of hostilities, WHO has recorded a large number of Israeli attacks on health personnel and infrastructures in Gaza, the West Bank, as well as in Lebanon, leading to fatalities and injuries among health workers and patients, and damaging or destroying many medical facilities. According to OHCHR, the IDF has attacked hospitals across Gaza in apparent **systematic** fashion. Under international law (Rome Statute), the **intentional targeting** of hospitals and places where the sick and wounded are collected may constitute **a war crime**. Medical facilities' alleged loss of protective status, due to the presence adversary's military assets, does not exempt Israel from abiding by the **IHL principles of distinction, proportionality and precautions**.

On 20 May 2024, ICC Prosecutor Khan filed applications for arrest warrants alleging war crimes and crimes against humanity by senior Hamas leaders but also by **Israeli leaders**.

In July 2024, the ICJ has identified 6 types of **violations of IL** associated with **Israel's settlement policy**. The ICJ also found that Israel's policies and practices amount to **annexation** of large parts of the OPT, in **violation** of the prohibition of the **use of force** in IL and of the principle of non-acquisition of territory by force. The regime of comprehensive restrictions imposed by Israel on Palestinians in the OPT constitute a breach of CERD article 3 (prohibition of **racial segregation and apartheid**). Israel is also in violation of the **right the Palestinian people to self-determination**. Israel however maintains its settlement policy – while its correlate, untamed settler violence intensifies.

Israel's extensive recourse to detention (including administrative detention) in Gaza and the West Bank point to acts of **arbitrary detention** and **collective punishment**, and may amount to **war crimes**.

Concerns of violation of the IHL and IHRL requirements of necessity and proportionality have also been expressed following Israel's paggers and radio attacks in Lebanon and Syria. Israel's air strikes on **Lebanon**, including on residential buildings, hospitals and UN personnel also strongly suggest that Israel's means and methods of warfare fail to comply with IHL principles. **Attacks on UN personnel and infrastructures** are a violation of **international law**. They may also constitute **war crimes**.

1. LEGAL BACKGROUND: APPLICABLE HUMAN RIGHTS OBLIGATIONS UNDER INTERNATIONAL LAW, INCLUDING HUMANITARIAN LAW

6. States are bound by **international human rights law (IHRL)** at all times, including during armed conflicts, and have the obligation to respect, protect and fulfil the human rights of everyone within their jurisdiction, including in the territories over which they exercise effective control. In times of conflict as well as in situations of military occupation, **international humanitarian law (IHL)** concurrently applies. IHL regulates the methods and means of warfare, and imposes legally binding obligations concerning the human rights of persons affected by conflict. Both IHRL and IHL share the common aims of protecting human life and dignity. They provide complementary and mutually reinforcing protection.

7. Israel has rejected the applicability of its **human rights obligations** outside its national territory but resolutions of the General Assembly, reports of the Secretary-General and of the High Commissioner for Human Rights, the UN Human Rights Council, UN treaty bodies as well as the ICJ⁶ have consistently stated that Israel does bear human rights obligations in the Occupied Palestinian Territory. A situation of occupation (like a situation of armed conflict) does not release a State from its human rights obligations. On the contrary: international human rights law is applicable in respect of acts done by a State in the exercise of its jurisdiction outside its own territory. In the OPT (East Jerusalem, West Bank and Gaza), Israel is bound under IHRL to secure the human rights of all persons, without discrimination. **The more effective the control, the greater the human rights obligations.**

8. Under **IHL and the rules of occupation**, individuals living in the OPT are to be considered as “protected persons” and as such, are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their customs. They must be humanely treated at all times, and must be protected against all acts of violence or threats. Additionally, **the Occupying Power is bound to ensure, to the fullest extent of the means available to it, sufficient hygiene and public health standards, as well as the provision of food and medical care to the population under occupation.** The Occupying Power is also under the obligation to restore and ensure, as far as possible, public order and safety in the occupied area. To this end, it may conduct law enforcement operations and policing activities, in compliance with applicable human rights norms.

9. **Under international law, States are primarily responsible to conduct investigations, hold perpetrators of violations and crimes to account.** A State which finds that violations or crimes may have been committed within its jurisdiction must ensure that accountability be served on all sides. Failing this, supranational mechanisms may step in to investigate and/or prosecute. Decisions of international courts must be respected by all members of the international community, regardless of political considerations or interests.

10. **In the context of Israel and the OPT, observers have deplored a persistent lack of accountability on all sides. In its February 2024 report on accountability and justice, OHCHR raised a broad range of concerns of violations and abuses of international human rights law and of violations of IHL⁷ and reiterated its calls for accountability. HCHR Türk stated that “the entrenched**

⁶ ICJ, *Wall Advisory Opinion*, §§ 107-113.

⁷ The report raises concerns of unlawful killings, hostage-taking, wanton destruction of civilian property, collective punishment, deprivation of essential services, strikes on civilian infrastructure, forced displacement, incitement to hatred and violence, sexual assault and torture, all of which are prohibited under IHRL and/or IHL.

impunity reported by [OHCHR] for decades cannot be permitted to continue. There must be accountability on all sides for violations seen over 56 years of occupation and the 16 years of blockade of Gaza, and up to today.” According to Israel, in the context of the current Gaza conflict, the Military Advocate General (MAG) has ordered the opening of and is still conducting several criminal investigations into incidents that raised suspicion of detainee mistreatment, deaths of detainees, pillaging, and the illegal use of force. Israel reports that many other incidents have been referred by the MAG to the IDF General Staff’s Fact-Finding and Assessment Mechanism (“FFA Mechanism”). Criticisms have been raised in the past, including by OHCHR, as to the limited outcomes of FFA Mechanism investigations. OHCHR recently reiterated the concerns it identified in previous reports to the UN General Assembly and Human Rights Council on the efficacy, independence and impartiality of the military justice system. OHCHR pointed in particular to the dual role of the Military Advocate General: as both legal adviser to Israeli military authorities and supervisor of disciplinary and criminal investigations, OHCHR noted, MAG is responsible for investigating violations carried out in operations for which he provided legal advice. The elapse of time since some of the reported incidents without accountability being served is of further concern to OHCHR (June 2024 OHCHR Thematic Report on indiscriminate and disproportionate attacks during the conflict in Gaza, “OHCHR IHL Thematic Report”).⁸

11. In January 2024, the ICJ called on Israel to take effective measures to prevent the destruction and ensure the preservation of evidence related to allegations of genocidal acts. In May, the ICJ further ordered Israel to take effective measures to ensure the unimpeded access to Gaza of any commission of inquiry, fact-finding mission or other investigative body mandated by competent UN organs to investigate allegations of genocide. According to UN sources, to date, Israel has not allowed entry to the Occupied Palestinian Territory, including Gaza, for any commission of inquiry, fact-finding mission or other investigative body mandated by competent UN organs to investigate grave violations of international human rights and humanitarian laws.

⁸ OHCHR, [Thematic Report Indiscriminate and disproportionate attacks during the conflict in Gaza \(October – December 2023\)](#) (“OHCHR IHL Thematic Report”), 19 June 2024, pp. 15-16.

II. ATTACKS OF 7 OCTOBER 2023

12. On 7 October, more than a thousand members of **Hamas military wing and other Palestinian armed groups, accompanied by armed and unarmed Palestinians**, launched a large-scale coordinated attack in Israel. They crossed into Israel by land, sea and air, and attacked small towns, kibbutzim and a music festival, as well as military bases.

13. OHCHR and CoI reported that the attackers committed **serious violations of international human rights law (IHRL) and international humanitarian law (IHL) on a wide scale**, including: wilful killing (more than 1,200 persons killed, *i.e.* at least 812 were civilians - including 40 children, and 314 military personnel⁹) and mistreatment of civilians, **wanton destruction of civilian objects**, hostage-taking (at least 252, mainly civilians, including 47 children¹⁰), grave violations against children (Cf 2024 CAAC Report)¹¹, accounts of rape and sexual violence, and the destruction of property (Cf CoI report)¹². They constitute **war crimes** and may also, depending on further investigation, amount to **other serious crimes** under international law.

14. HCHR Türk has requested Israeli authorities to grant OHCHR access to Israel and the OPT, for the purpose of investigating all violations that occurred on 7 and 8 October. Those requests, and similar ones by the Commission of Inquiry, have remained unanswered.

15. On the basis of evidence collected and examined by his Office, the ICC Prosecutor considered that there were reasonable grounds to believe that 3 senior leaders of Hamas bear criminal responsibility for atrocity crimes committed on the territory of Israel and the State of Palestine (in the Gaza strip) from at least 7 October 2023. On 20 May 2024, he applied for arrest warrants against them. The Prosecutor's application mentioned **war crimes** (murder, taking of hostages, and, in the context of captivity, rape and other acts of sexual violence, torture and other inhuman acts, cruel treatment, and outrages upon personal dignity) and **crimes against humanity** (extermination, murder, rape and other acts of sexual violence, torture and other inhuman acts, cruel treatment, outrages upon personal dignity).

16. The EU already listed **Hamas as a terrorist organisation** prior to 7 October 2023. Following the attacks, the EU reviewed its EU Terrorist List to designate the political leader and two military leaders of Hamas.

17. On 19 January 2024, in view of the gravity of the attacks of 7 October 2023 against Israel, and with a view to prevent such violent actions in the future, the Council established **a dedicated framework of restrictive measures** that allows the EU to hold accountable any individual or entity who supports, facilitates or enables violent actions by **Hamas and the Palestinian Islamic Jihad (PIJ)**. A total of 12 individuals and 3 entities are currently sanctioned under this framework.

18. On 12 April 2024, the EU designated the armed wings of Hamas (Izz al-Din al-Qassam Brigades and Nukhba Force) and Islamic Jihad (Al-Quds Brigades) under the **EU global human rights sanctions regime (EUGHRSR)**. The 3 entities were listed in response to the allegations of widespread sexual and gender-based violence committed during the 7 October terrorist attacks.

⁹ Information published on the website of Israel's Ministry of Foreign Affairs, based on National Insurance Institute data of 25 May 2024.

¹⁰ *Ibid.*

¹¹ [Report of the Secretary-General on children and armed conflict](#), S/2024/384-A/78/842, 3 June 2024 (hereinafter "2024 CAAC Report"), §§ 94, 100, 101.

¹² Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, [Detailed findings on attacks carried out on and after 7 October 2023 in Israel](#), A/HRC/56/CRP.3, 10 June 2024.

19. Hamas' Izz al-Din al-Qassam Brigades and affiliated factions, and Palestinian Islamic Jihad's Al-Quds Brigades have been listed in the **UNSG Annual Report on Children and Armed Conflict**, for the killing and maiming and abduction of children.

20. Following 7 October Hamas-led attacks in southern Israel, Israel launched its ongoing large scale military response in Gaza, and the human rights situation in the West Bank reportedly further deteriorated (*see* below). Israeli authorities report that cross-border attacks on Israel from Lebanon and Syria by Hezbollah and other Iran-backed armed groups have caused death and injury to dozens of people in northern Israel and the internal displacement of thousands of civilians.

III. SITUATION IN GAZA

21. As mentioned, **as Occupying Power**, Israel is bound by its obligations under **IHRL** and **IHL rules of occupation** in Gaza. **As belligerent** in Gaza, Israel has the duty to respect core human rights in the planning and conduct of its military operations, in order to spare civilians, including humanitarian personnel, and to protect civilian objects. To do so, Israel must strictly adhere to the **IHL principles of humanity, distinction, proportionality, and military necessity**, whose very purpose is to preserve civilian life and health. The EU has been unequivocal: if Israel has the right and indeed the **duty to protect its population**, in doing so, it is bound to **respect its obligations under international law, including IHRL and IHL**.

A. Before 7 October 2023

22. The humanitarian situation in Gaza has been serious for years, due to Israel's closure of the Strip, which has been affecting all areas of life. Movements of people and goods were restricted, workers' rights were infringed, and poverty persisted, as reported by a number of international institutions (including OHCHR, the UN Office for the Coordination of Humanitarian Affairs – UN OCHA¹³, the World Health Organisation – WHO¹⁴, the International Labour Organisation – ILO¹⁵, and the World Bank¹⁶ among others).

23. **Before 7 October 2023**, OHCHR reported that human rights violations were committed **by all duty bearers** (Israel, PA and *de facto* authorities, incl. Hamas in Gaza). The closure of Gaza, in place since 2007, has had a devastating humanitarian impact as well as severe implications for economic, social and cultural rights of Palestinians. The permit regime imposed restrictions on Gazans' freedom of movement, profoundly affecting their enjoyment of other rights, including the rights to work, to an adequate standard of living, to education and to health, on a daily basis. Concerns raised in 2023 by OHCHR included collective punishment (blockade), excessive use of lethal force by Israeli forces, poverty (affecting two thirds of Palestinians in Gaza), insufficient provision of food and medical care, and a persistent climate of impunity.

24. Several Israeli Air Force (IAF) strikes during escalation of hostilities between Gaza and Israel in August 2022 and May 2023 raised concerns of possible IHL violations by Israel, including the principles of proportionality, precautions, and distinction, as reported *i.a.* by the UN Secretary General.¹⁷

25. According to the UN (*e.g.* OHCHR¹⁸, UN WOMEN¹⁹), while the prolonged Israeli occupation negatively impacts the lives of all Palestinians, it has particularly far-reaching repercussions for women and girls, and is highly gendered in nature. In Gaza especially, partly owing to pre-existing

¹³ UN OCHA, [Humanitarian Needs Overview 2023](#); UN OCHA, [Humanitarian Needs Overview OPT](#), December 2021.

¹⁴ WHO, Report by the Director-General, "[Health conditions in the occupied Palestinian territory, including east Jerusalem, and in the occupied Syrian Golan](#)", A/74/22, 20 May 2021, §15.

¹⁵ International Labour Organization (ILO), [The Situation of Workers of the Occupied Arab Territories: Report of the Director-General – Appendix 2021](#), 20 May 2021, §144.

¹⁶ See for instance: [World Bank, Palestinian Territories' Economic Update, April 2022](#); World Bank, [2024 Note on the Impacts of the Conflict in the Middle East on the Palestinian Economy](#), May 2024.

¹⁷ See Report of the Secretary-General, "Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory including East Jerusalem", A/78/502, 2 October 2023.

¹⁸ Report of the UN High Commissioner for Human Rights, "Implementation of Human Rights Council resolutions S-9/1 and S-12/1", [A/HRC/46/63](#), 11 February 2021.

¹⁹ UN WOMEN, [Facts and estimates: Women and girls during the conflict in Palestine](#), 13 June 2024.

gender inequalities, women's access to healthcare services, education and employment has been negatively affected by the occupation and blockade.

B. After 7 October: escalation of hostilities and possible atrocity crimes

26. In response to 7 October attacks, Israel launched a large-scale military operation on Gaza.

Right of self-defence vs. reprisals

Under international law, **Israel has the right and indeed the duty to protect its population** but, in doing so, it must act in compliance with international law. In 2004, in the case "*Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*", the ICJ found that **Israel could not rely on the right to self-defence in the case of armed attack originating from a territory it controls, i.e. the OPT, including Gaza.** Although Israel withdrew its forces from the Gaza strip in 2005, the prevailing analysis is that **Gaza has remained part of the OPT, due to Israel's continued blockade and authority over Gaza's airspace and territorial sea.**

In any case, even if Israel were to object to its status of Occupying Power in Gaza at the time it launched its military operation, the right of self-defence forms an exception to the general prohibition against the use of force under UN Charter Article 2(4), and is therefore circumscribed. **A State may only lawfully invoke its right of self-defence in response to an armed attack (or an imminent threat of attack), and provided the response is proportional and necessary.** A use of force that does not meet those requirements may constitute "reprisals", which are in principle prohibited under IHL.

27. **Irrespective of the reasons for the conflict and of the legality of the decision to use force (*jus ad bellum*), all parties to an armed conflict are bound by international humanitarian law (*jus in bello*).** Each party to the conflict, State and non-State actors, are required to **respect and ensure respect for IHL** by all those acting on their instructions, or under their direction or control. This obligation does not depend on reciprocity. Disrespect of the rules of IHL by one party cannot legitimise violations by the other: **crimes committed by one party do not justify crimes by the other.**

28. **Since 7 October** and the escalation of hostilities in Gaza, the human rights and humanitarian situations in Gaza have continuously deteriorated. The conflict has resulted in massive numbers of casualties, including a large proportion of children and women, caused widespread destruction, notably of the healthcare system, and displaced 90% of the population, in the context of severe limitations to the entry and distribution of essential goods and services (*see e.g.* OCHA).

29. On 5 November 2024, the Gazan Ministry of Health (MoH) reported **43,391 Palestinians fatalities**, of which 40,717 were identified as of 7 October 2024, and 102,347 Palestinian injuries. MoH estimates that most of the killed and injured were civilians, with a **large proportion of children and women**. OHCHR itself, pursuant to a very strict verification methodology which requires at least three independent sources, has been able to confirm 8,119 fatalities, including **44% children**, 25% women and 31% men. OHCHR has reasons to believe that MoH figures are accurate: 1/ OHCHR underlines that, prior to October 7, figures communicated by the Gazan MoH have proven to be accurate. 2/ The proportion of women and children among casualties within confirmed deaths matches that in MoH data.

30. There is also an unprecedentedly high number of **casualties** among **humanitarian workers in Gaza**. According to OCHA, of the 326 aid workers reportedly killed, 241 were UN staff (incl. 237 UNRWA), despite the sharing of information (locations, activities, movements) by humanitarian actors with Israeli military authorities.

31. Mid-October 2024, the Integrated Food Security Phase Classification (IPC)²⁰ reported that 86% of the analysed population (1,86 million) was facing high levels of acute **food insecurity** classified in IPC Phase 3 (Crisis), 4 (Emergency) or 5 (Catastrophe). IPC projected it to rise to 91% within 6 months, with 345K people facing catastrophic levels of food insecurity (IPC Phase 5), *i.e.* almost triple the existing figure. According to OCHA, as of September 2024, more than 85 per cent of **children** are estimated to face severe food poverty and consume less than two types of food per day, indicating almost non-existent levels of child dietary diversity.²¹ OCHA reported in October 2024 that more than 50,000 children were estimated to require treatment for acute malnutrition.²²

32. IPC also concluded that, under a “reasonable worst-case scenario”, the whole of the Gaza Strip would be at risk of famine between November 2024 and April 2025. By **8 November**, this worst-case scenario was reportedly materialising in areas of **northern Gaza**, including: escalation and intensification of hostilities, displacement, collapse of food systems (humanitarian and commercial shipments at their lowest since 7 October 2023), attacks on health and nutrition care facilities, and collapse of the water, sanitation and hygiene (WASH) system. Stressing that the extreme gravity, and the unprecedented speed of its deterioration required an “**extremely urgent response**”, IPC issued a Famine Review Committee Alert, calling on all parties who are directly taking part in the conflict, or have influence on its conduct, to “**take immediate action, within days not weeks**”, to avert and alleviate the humanitarian catastrophe. “*It can (...) be assumed that **starvation, malnutrition, and excess mortality due to malnutrition and disease**, are rapidly increasing in these areas. **Famine thresholds may have already been crossed or else will be in the near future.***”

33. Since October 2024, the UN (e.g. OHCHR, OCHA) have reported and expressed their dismay of the intensification of Israeli military operations, evacuation orders and military siege of **northern Gaza**. On 1 November, the principals of 15 UN and humanitarian organisations, part of the Inter-Agency Standing Committee (IASC) – the longest-standing and highest-level humanitarian coordination forum of the United Nations system – issued a statement describing the situation in North Gaza as “*apocalyptic*” and calling on all parties fighting in Gaza to protect civilians, on Israel to “*cease its assault on Gaza and on the humanitarians trying to help*”, and on all UN Member States to “*exercise their leverage to ensure respect for international law*”. Referring to the ongoing siege on the area, the denial of basic aid and life-saving supplies, bombardments and other attacks, including attacks on hospitals, attacks on shelters, and access constraints to humanitarian aid, the UN Principals assess that “*[the] **entire Palestinian population in North Gaza is at imminent risk of dying from disease, famine and violence.***” They stress that “***blatant disregard for basic humanity and for the laws of war must stop***”.

34. Observers have found that the mass loss of life, the scale of destruction and the severe shortage in basic items and services across Gaza point to the possible commission of **atrocities crimes** by all parties (elaborated upon below).

Atrocities crimes are crimes within the jurisdiction of the ICC. They include the crime of genocide, crimes against humanity and war crimes. Genocide and crimes against humanity are notoriously difficult to prove. Proving genocide requires a proof of intent. Crimes against humanity require showing the crimes occurred (1) as part of a widespread and systematic attack and (2) pursuant to a government or organisation policy.

²⁰ IPC, GAZA STRIP: [IPC Acute Food Insecurity Special Snapshot | September 2024 - April 2025](#), 17 October 2024.

²¹ OCHA, [Gaza Humanitarian Response Update | 30 September - 13 October 2024](#).

²² OCHA, [Reported Impact Snapshot | Gaza Strip \(29 October 2024\)](#).

35. There are numerous reports and statements²³ by *i.a.* OHCHR, the CoI and the ICC Prosecutor indicating violations of international law, including IHRL and IHL, committed by all parties, and calling for effective, independent investigation and accountability. Some of those violations constitute crimes under international law, including war crimes and possibly crimes against humanity or genocide.

36. **Reported violations in Gaza include** high casualties, particularly women and children, but also among humanitarian workers, health personnel and journalists, grave violations against children, *"unprecedented in scale and intensity"* (UNSG CAAC report), the use of weapons with wide area effects (OHCHR, CoI), collective punishment (*"total siege"*, hindered provision basic services and humanitarian assistance), starvation (possibly as a method of warfare), hindering of humanitarian assistance, attacks on hospitals, collapse of the healthcare system, large and repeated mass displacement, evacuation of civilians to areas without satisfactory reception conditions, lack of shelter (OCHA), mass destruction of and damage to civilian homes and infrastructures.

37. OHCHR further reported torture and ill-treatment, holding of hostages, concerns of (mass) arbitrary detention and enforced disappearance in Gaza and in military camps in Israel, destruction of civil society, targeting of journalists, lack of access for international observers (including UN), and lack of accountability.

38. Israeli armed and security forces have been listed in the annual CAAC report for the killing and maiming of **children**, for denial of humanitarian access (incl. to seek specialised medical treatment) and for attacks on schools and hospitals. Of the verified killings of Palestinian children in Gaza, UNSG CAAC report finds that **most incidents were caused by the use of explosive weapons in populated areas by Israeli armed and security forces**.

39. OHCHR and the ICC Prosecutor have voiced serious doubts *vis-à-vis* the legality of the **means and methods of warfare** used by Israel. They have underlined that the very large number of civilian casualties and injuries, including children, women (typically not combatants) and humanitarian personnel, and severe damage to civilian infrastructures strongly suggest **indiscriminate and disproportionate targeting by Israeli forces, in violation of IHL principles** (*see* below para. 47s). Such acts **constitute war crimes and may constitute crimes against humanity**. Given the documented scale of destruction and damage to infrastructures and services, the same sources indicate that the **denial of humanitarian assistance by Israel**, in a context of the continued **blockade and siege** it imposes on Gaza, may amount to **wilful killing or causing great suffering or serious injury to body or health**, or **using starvation as a method of warfare**, which also constitute atrocity crimes (elaborated upon below).

40. **On 20 May 2024, ICC Prosecutor Khan filed applications for arrest warrants alleging war crimes and crimes against humanity** by senior Hamas leaders (*see* above) but also by **Israeli leaders: Israeli Prime Minister Benjamin Netanyahu and Israeli Minister of Defence Yoav Gallant**. The Prosecutor stated that there were reasonable grounds to believe that they bear criminal responsibility for crimes committed in Gaza from at least 8 October 2023:

- **War crimes:** starvation of civilians as a method of warfare, wilfully causing great suffering, or serious injury to body or health, or cruel treatment, wilful killing, or murder, intentionally directing attacks against a civilian population,
- **Crimes against humanity:** extermination and/or murder, including in the context of deaths caused by starvation, persecution, and other inhumane acts intentionally causing great suffering,

²³ HCHR Türk Statement, ["Türk calls for end to 'carnage' in Gaza"](#), 29 February 2024.

or serious injury to body or to mental or physical health, all committed as part of a widespread and systematic attack against the Palestinian civilian population pursuant to State policy.

1. War crimes

41. War crimes include *i.a.*: intentionally directing attacks against civilians, wilfully causing great suffering or serious injury to body or health or cruel treatment, wilful killing or murder, subjecting persons to humiliating treatment, starving civilians as a method of warfare, unlawful transfer, and using and recruiting children under 15 years of age to participate in hostilities.

42. In its February 2024 report on accountability and justice, OHCHR stated that **Israel's military response** to October 7 attacks – and its choice of means and methods of warfare – have led to massive suffering of Palestinians, including the **killing of civilians on a broad scale, extensive, repeated displacement, destruction of homes**, and the **denial of sufficient food and other essentials of life**. Women and children have suffered especially. *“Clear violations of international law have been committed.”*

43. On 23 April, HCHR Türk decried a series of **Israeli strikes on Rafah** in the preceding few days that **killed mostly children and women**, repeating his warning **against a full-scale incursion on Rafah**, an area where **1.2 million civilians** have been **forcibly cornered**. *“Such an operation would lead to further breaches of international humanitarian law and international human rights law (...) – even further atrocity crimes.”* The HCHR stressed that *“every 10 minutes a child is killed or wounded.”*

44. Gaza witnessed an unprecedented scale and number of attacks striking hospitals, religious and cultural sites, and schools (2024 HCHR Accountability and Justice Report). Acknowledging Israel's claim that Palestinian armed groups were using civilian infrastructures (and tunnels underneath them) to conduct military operations, OHCHR observed that such an utilisation of protected places or of the presence of protected persons (civilians or *hors de combat* combatants) with a view to shield military assets from being attacked, constitutes a use of **“human shields”**, which is prohibited under international law and amount to a **war crime**. The use of human shields, OHCHR stressed, **“would not, however, justify indiscriminate or disproportionate attacks by Israeli security forces”**. In a new report, OHCHR notes that *“in most instances, the IDF did not offer substantial evidence to support their allegations, and OHCHR has not been able separately to verify them”* (OHCHR Nov. 2024 Update Report²⁴).

45. Palestinian **journalists** and media workers have reportedly been killed in large numbers, possibly as a result of being directly targeted, which would constitute a war crime (OHCHR Nov. 2024 Update Report). These deaths occurred in the context of **major communication blackouts** in Gaza, detrimental to the civilian population, to the work of humanitarian and rescue personnel, and to the timely and effective monitoring and reporting of international law violations. The disruption of enemy communications may constitute a valid military objective, however, such attacks on civilian infrastructures must meet the IHL requirements of distinction, proportionality and precautions in attack.

46. In the same report, OHCHR notes that **white phosphorus** munitions were reportedly used. Employing weapons with indiscriminate effects, or that cause superfluous injury or unnecessary suffering, or long-term and severe damage to the natural environment, are prohibited. It may constitute a war crime under the Rome Statute.

²⁴ OHCHR, Update Report, “Six-month update report on the human rights situation in Gaza: 1 November 2023 to 30 April 2024”, 8 November 2024 (“OHCHR Nov. 2024 Update Report”), p. 12.

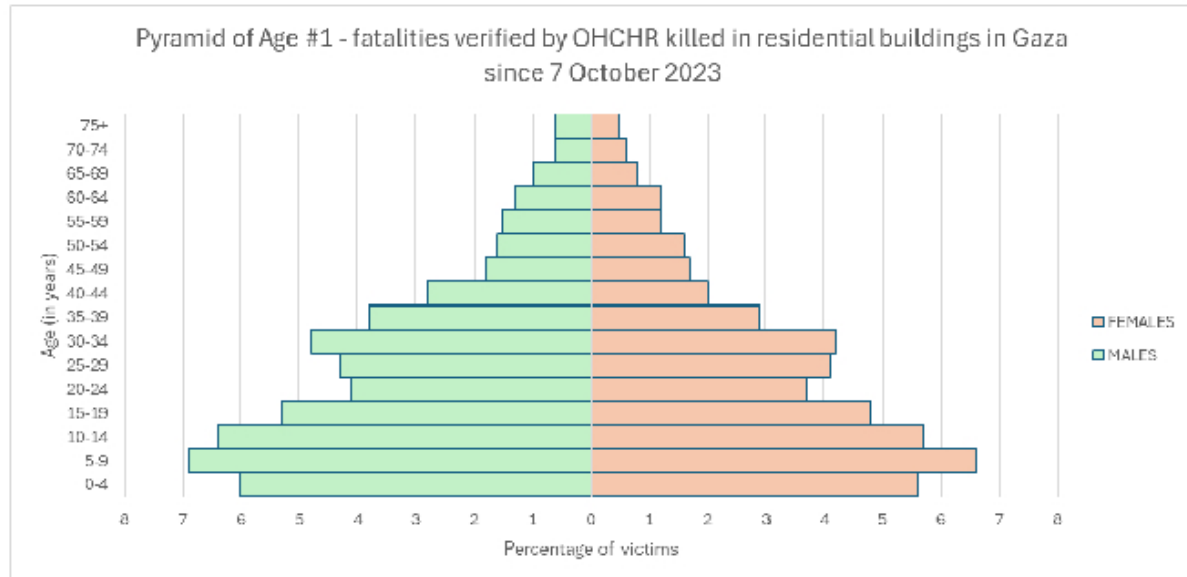
Attacks with significant number of civilian casualties

47. Across a series of reports, the lawfulness of Israel's choice of means and methods of warfare has been questioned. **Of the killings of Palestinian children that the UN verified (2,051 in OPT and Israel) between 7 October and the end of December 2023, most incidents were caused by the use of explosive weapons in populated areas by Israeli armed and security forces** (UNSG CAAC Report).

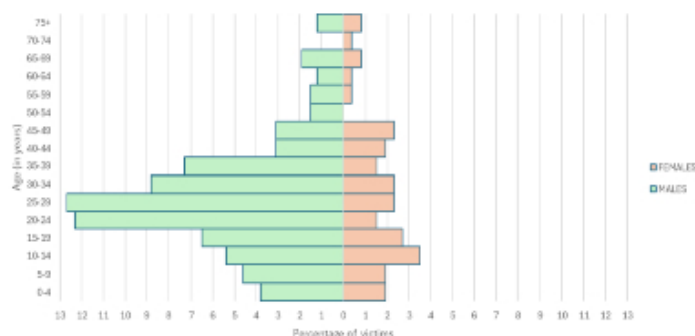
48. In June 2024, OHCHR shared its concerns regarding **Israel's use of explosive weapons with wide area effects in densely populated** areas between October and December 2023 (OHCHR IHL Thematic Report). OHCHR's ongoing monitoring and analysis has found that *"87 per cent of the verified fatalities have occurred in incidents that resulted in 5 or more fatalities, and over 60 per cent were killed in incidents that resulted in 10 or more fatalities"*. According to OHCHR, *"[t]hese statistics suggest that Israel's choices of means and methods of warfare in Gaza since 7 October, including its use of explosive weapons, have failed to ensure that they effectively distinguish between civilians and combatants."*

49. In November 2024, based on the data analysis of the 8,119 Palestinian fatalities it verified, OHCHR found that the **"unprecedented level of killing and injury of civilians"** in Gaza was **"a direct consequence of the Israeli Defense Forces' (IDF) failure to comply fundamental principles of IHL"**, *i.e.* the principles of distinction, proportionality and precautions in attack. According to OHCHR, of the verified Palestinian deaths caused by attacks on residential buildings in Gaza (7,607), **44% were children** – mainly young children and babies.

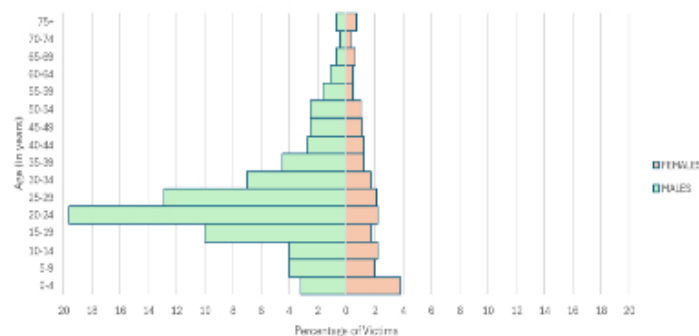
50. Reproduced below are the **population pyramids** (age and sex) of OHCHR-verified fatalities in Gaza in the current context, and in two previous escalations (source: OHCHR Update Report).



Pyramid of Age #2 - fatalities verified by OHCHR killed in Gaza in May 2021 Escalation



Pyramid of Age #3 - fatalities verified by OHCHR killed in Gaza in 2014 Escalation



UN OHCHR [Update Report](#), *Six-month update report on the human rights situation in Gaza: 1 November 2023 to 30 April 2024* (8 November 2024), accessed on 8 Nov. 2024, pp. 8-9.

51. OHCHR observes that the distribution of victims in the current escalation, across all age groups, and among men/boy and women/girls, **does not reflect known demographic of combatants** but instead **mirrors the age structure of the Gazan population** at large. This raises **concerns** that the **IDF failed to strictly comply with the IHL fundamental principles of distinction, precautions in attack, and proportionality**. Indiscriminate attacks are prohibited under IHL. The continuation of attacks for months “despite early evidence of the massive civilian harm”, OHCHR adds, “demonstrates **an apparent indifference** to the death of civilians” and to the impact of the selected means and methods of warfare. Under the Rome Statute, and as underlined by OHCHR, **intentionally directing attacks against civilians and civilian objects, or in the knowledge** that the attack will cause **incidental loss of life or injury** to civilians or **damage** to civilian objects which would be **clearly excessive in relation to the concrete and direct overall military advantage** anticipated constitute **war crimes**.

52. Despite the ICJ ordering Israel, in May, to “*immediately halt its military offensive, and any other action in the Rafah Governorate, which may inflict on the Palestinian group in Gaza conditions of life that could bring about its physical destruction in whole or in part*”, **Israeli bombardment from the air, land, and sea** have continued to be reported **across the Gaza Strip**, resulting in further civilian casualties, displacement, and destruction of civilian infrastructure, including medical facilities. Ground incursions and heavy fighting have also been reported.

53. Reports of camps of displaced persons being hit by airstrikes have also emerged. On 26 May, **two days after the ICJ ordered Israel to immediately halt its military offensive in Rafah**, the Israeli army conducted **air strikes on Tal al-Sultan camp for displaced persons**, “*densely packed with civilians*” (according to HCHR Türk) in the Al Hashash area in Rafah, **killing 49 Palestinians** (including at least 23 women, children, and elderly), and wounding 249. Israeli PM Netanyahu referred to the strike as a “*tragic mishap*” and announced an investigation. On 27 May, in response to the 26 May Israeli military airstrikes, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Martin Griffiths, stated: “*We have said repeatedly that no place is safe in Gaza. Not shelters. Not hospitals. Not the so-called humanitarian zones. We have also warned that a military operation in Rafah would lead to a slaughter.*” HCHR Türk also noted that the recent Rafah airstrikes “*point to no apparent change in the methods and means of warfare used by Israel that have already led to so many civilian deaths.*”

54. In June 2024, following Israeli forces’ hostage freeing operation in An Nuseirat, which secured the release of 4 hostages while killing and injuring hundreds of Palestinians, many of them civilians,

OHCHR reiterated that the operation conducted in a densely populated area seriously called into question ISF's respect for the IHL principles of distinction, proportionality and precautions. OHCHR noted that armed groups **holding hostages** in such **densely populated areas** were putting the lives of Palestinian civilians and the hostages at heightened risk. All these actions may amount to **war crimes**.

55. Since October 2024, primarily in **North Gaza** governorate but also in **Deir al Balah** governorate, intensified hostilities, including airstrikes and shelling, reportedly resulted in several mass casualty incidents, with large number of Palestinian fatalities and injuries, including many children. Referring to recent attacks, including on a vaccination clinic and on a UNICEF vehicle, UNICEF Executive Director Catherine Russel stated that these were "*yet further examples of the grave consequences of the indiscriminate strikes on civilians in the Gaza strip*". UNICEF Executive Director stressed the "*horrific level of **child deaths** in North Gaza*".

Collective punishment and starvation

56. According to OHCHR (Nov. 2024 Update Report), the '**complete siege**' of Gaza initially declared by Israel followed by **severe restrictions** imposed by Israel on the entry and distribution of essential goods and services "*brought the risk of famine and starvation to Gaza*", in the context of Israel's intense military campaign, the destruction of infrastructures, unexploded ordnance contamination, widespread displacement, and the breakdown of public order and safety. Moreover, Israel's repeated **attacks on UNRWA** and the campaign against it (including recently adopted legislation) contribute to further deteriorating the humanitarian situation in the OPT.

57. A tightened Israeli siege imposed on **North Gaza** governorate since 6 October 2024 has severely limited the entry of humanitarian aid. Late October, the UN Human Rights Office in OPT stated that the manner in which the Israeli military is conducting hostilities there, along with unlawful interference with humanitarian assistance and "evacuation orders" that are leading to forced displacement, "**may be causing the destruction of the Palestinian population in Gaza's northernmost governorate through death and displacement**".

58. According to OHCHR (Feb. 2024 Report on accountability and justice), the **blockade and siege of Gaza by Israel amount to collective punishment, and may also amount to the use of starvation as a method of war** - both of which, committed intentionally, are war crimes. According to HCHR, under international law: "*starvation must never be a means or result of warfare*". Similarly, the CoI found that Israeli authorities have weaponised the siege of Gaza and used the provision of life-sustaining necessities for strategic and political gains (June 2024 report).

59. In December 2023, ICC Prosecutor Khan urged Israel to allow humanitarian assistance at pace and at scale in Gaza. As mentioned above, on 20 May, the Prosecutor filed an **application for arrest warrants** against **Israeli PM and Minister of Defense**, among other grounds on the **war crime of starvation**. The Prosecutor stated that evidence collected by his Office showed that Israel had "intentionally and systematically deprived the civilian population in all parts of Gaza of objects indispensable to human survival". This, the Prosecutor argued, occurred through the imposition of a "total siege over Gaza" (complete closing of border crossings, arbitrary restrictions on the transfer of essential supplies, cutting off of cross-border water pipelines and of electricity supplies) alongside other attacks on civilians, obstruction of aid delivery and attacks on and killing of aid workers.

60. **Belligerents are under the obligation to permit relief operations for the benefit of civilians**, including enemy civilians. Additionally, **under IHL, the Occupying Power must ensure**, to the fullest extent of the means available to it, **sufficient hygiene and public health standards**, as well as the provision of **food and medical care** to the population under occupation. Israel, **both as**

Occupying Power and as party to the conflict, must take immediate steps to provide essential services and facilitate the entry and distribution of sufficient aid.

IHL recognizes that the civilian population of a State affected by an armed conflict is entitled to receive **humanitarian assistance**. It regulates in particular the conditions for providing humanitarian assistance, in the form of food, medicines, medical equipment or other vital supplies, to civilians in need.

During an international armed conflict, belligerents are thus under the **obligation to permit relief operations for the benefit of civilians, including enemy civilians**.

Under the Rome Statute of the ICC, **intentionally directing attacks against personnel involved in a humanitarian assistance mission** in accordance with the UN Charter is a **war crime**, as long as such personnel are entitled to the protection given to civilians under IHL.

Art. 23 of Geneva Convention IV outlines the basic principles applicable to **consignments of medical and hospital stores and relief assistance for particularly vulnerable groups among the civilian population: children under fifteen and pregnant and nursing mothers**. It also grants the States concerned the **right to inspect the contents and verify the destination** of relief supplies, as well as **to refuse the passage of relief goods if they have well-founded reasons to believe that they will not be distributed to the victims but rather used in the military effort**.

This last provision has been extensively relied upon by Israel to deny entry of goods (including alleged "dual-use" goods).

As mentioned, the **rules of occupation** impose additional obligations to occupying States to not only allow passage but to actually **provide for the most basic needs** of the population in occupied territories.

61. In January 2024, the ICJ ordered Israel to take immediate measures to enable the provision of urgently needed basic services and humanitarian assistance, to address the adverse conditions of life faced by Palestinians in Gaza. Reports of continued impediments by Israel to the delivery of sufficient humanitarian assistance, and attacks on humanitarian personnel by Israeli forces have not ceased since. In March 2024, the ICJ indicated **additional provisional measures** – despite Israel’s claims of “fundamental misrepresentation by South Africa of the reality of the ground”. The Court observed that, since 26 January 2024, “*the catastrophic living conditions of the Palestinians in the Gaza Strip have deteriorated further, in particular in view of the prolonged and widespread deprivation of food and other basic necessities to which the Palestinians in the Gaza Strip have been subjected*”, and that “*Palestinians in Gaza are no longer facing only a risk of famine, as noted in the Order of 26 January 2024, but that famine is setting in*”. **Unanimously** (i.e. including Israel’s *ad hoc* judge), the Court significantly **reinforced its earlier language** and ordered Israel to “*take all necessary and effective measures to ensure, without delay, in full co-operation with the United Nations, the unhindered provision at scale by all concerned of urgently needed basic services and humanitarian assistance, including food, water, electricity, fuel, shelter, clothing, hygiene and sanitation requirements, as well as medical supplies and medical care to Palestinians throughout Gaza, including by increasing the capacity and number of land crossing points and maintaining them open for as long as necessary*.” On 24 May 2024, the ICJ noted that, despite its two Orders for provisional measures, the catastrophic humanitarian situation in the Gaza strip further deteriorated to the point of being disastrous. The Court found that the military offensive in Rafah and the resulting repeated large-scale displacement of the already extremely vulnerable Palestinian population in the Gaza Strip that the **situation arising from Israel’s military offensive in Rafah and the resulting repeated large-scale displacement** of the already extremely vulnerable Palestinian population of Gaza required the indication of additional provisional measures to Israel. The Court ordered Israel to effectively and

immediately implement the provisional measures previously indicated, and additionally ordered Israel to “**immediately halt its military offensive, and any other action in the Rafah Governorate, which may inflict on the Palestinian group in Gaza conditions of life that could bring about its physical destruction in whole or in part**”, to “**maintain open the Rafah crossing for unhindered provision at scale of urgently needed basic services and humanitarian assistance**”, and to “**take effective measures to ensure the unimpeded access to the Gaza Strip of any commission of inquiry, fact-finding mission or other investigative body mandated by competent organs of the United Nations to investigate allegations of genocide**.” ICJ orders for provisional measures have binding effect and thus create international legal obligations for any party to whom the measures are addressed.

Attacks on hospitals and medical facilities

62. According to OCHA (Health Cluster), **16 of Gaza’s 36 hospitals are partially functional**, while the remaining 20 are out of service, and 48 of the 132 primary health care centres are partially functional. As of 29 October, it is estimated that more than 14,000 patients are in need of medical evacuation outside Gaza. On six occasions, 229 patients along with 316 companions have been exceptionally evacuated since the closure of Rafah Crossing on 7 May.²⁵

63. The UN Health Cluster has identified 504 attacks on health by Israel in Gaza. According to OHCHR (Nov. 2024 Update Report), IDF attack has attacked hospitals across Gaza “in apparent **systematic** fashion”. These attacks involved “direct strikes, sieges, the use of snipers, raids, and the apparent arbitrary detention and ill-treatment of medical staff, patients and their companions, and internally displaced persons (IDPs) sheltering at hospitals”, and the killing of many emergency medical workers.

64. **Intentionally targeting** medical facilities may constitute **a war crime**.

Under IHL, **medical facilities, including hospitals, are protected infrastructure**. They are entitled to special protection **because of their function of providing care for the wounded and sick**. They **should not be the object of attack**. Under the Rome Statute of the ICC, **intentionally directing** attacks against medical facilities is **a war crime**. This protection extends to the wounded and sick as well as to medical staff and means of transport. The rule has few **exceptions**.

A corollary is that **medical facilities should not be used outside their humanitarian function for “acts harmful to the enemy”**. In such cases, medical facilities are used by a party to the conflict to interfere directly or indirectly in military operations, and thereby cause harm to the enemy, the specific protection to which they are entitled may cease. In case of doubt as to whether medical units of establishments are used to commit an “act harmful to the enemy”, **they should be presumed not to be so used**.

The expression “act harmful to the enemy” is not defined under IHL. This body of law merely singles out a few acts expressly recognized as **not** being harmful to the enemy, such as the **carrying or using of individual light weapon in self-defense or defense of wounded and sick; armed guarding of a medical facility; or the presence in a medical facility of sick or wounded combatants no longer taking part in hostilities**.

Examples of use of medical facilities **outside their humanitarian function for “acts harmful to the enemy”** justifying a loss of protection include **if a hospital is used as a base from which to launch an attack; as an observation post to transmit information**

²⁵ OCHA, [Reported Impact Snapshot | Gaza Strip \(29 October 2024\)](#).

of military value; as a weapons depot; as a centre for liaison with fighting troops; or as shelter for able-bodied combatants.

Under the IHL **rules of occupation** (Art. 56 GC.IV), **to the fullest extent of the means available to it**, the Occupying Power has the duty of **ensuring and maintaining**, with the cooperation of national and local authorities, the **medical and hospital establishments and services, public health and hygiene in the occupied territory**, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to **combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties.**

65. As mentioned above, under IHL, medical facilities are protected infrastructure. Even if Israel contends that a medical facility has lost its protection as a result of being used by Hamas, it must nevertheless comply with the IHL principles of precautions and proportionality. Furthermore, Israel, as the occupying power, has the duty to ensure and maintain medical facilities and services in all of the occupied territory, including the Gaza Strip.

Detention

66. In a thematic report released on 31 July 2024, covering the period from October 2023 to June 2024 ("2024 Detention Report"), OHCHR provides a detailed account and legal analysis of the situation of **detention in Israel and Palestine**, including detention by Israeli security forces (ISF), by Palestinian Armed Groups (hostages) and by the Palestinian Authority (PA). Regarding the detention conditions for Palestinians in Israeli custody, OHCHR noted that while they were "*already of serious concern prior to 7 October 2023, the situation worsened dramatically thereafter*".

Together with *i.a.* OHCHR and human rights mechanisms, the EU has long expressed its concerns about Israel's practice of **administrative detention** of Palestinians, including children, without charge or trial, and without the guarantees of fundamental legal and procedural safeguards (*see* Art. 9 ICCPR). The Committee against Torture has repeatedly concluded that it constitutes cruel, inhuman or degrading treatment or punishment, in violation of CAT Convention (Art. 16). According to OHCHR (2024 Detention Report), since 7 October 2023, Israel has escalated the routine use of administrative detention in Gaza – as well as in the West Bank and Israel – under the legal regime of Military Order 1651 or, predominantly, under the "Incarceration of Unlawful Combatants law". Administrative detainees are held in detention without charge for extended and renewable periods, often on the basis of secret evidence that is not made available to the detainee or his/her lawyer.

While not prohibited as such, administrative detention (or "internment" under IHL) is permitted only in exceptional circumstances, and subject to stringent procedural safeguards. Failing these, it may constitute **arbitrary detention**, which is **prohibited under both IHRL and IHL** (ICCPR Art. 9; Art. 78 GC IV). Arbitrary detention in armed conflict **may amount to the war crimes** of wilful deprivation of their right to a fair trial (Rome Statute Art. 8(2)(vi) or unlawful confinement (Art. 8(2)(vii)).

67. According to OHCHR, since November 2023, Israel Defense Forces (IDF) have taken thousands of Palestinians into **custody** in Gaza, mostly men and boys, as well as some women and girls. Thousands, including medical staff, were taken into custody during raids on hospitals and schools serving as shelters for IDPs. Most have been held in military facilities before being transferred to detention facilities and prisons in Israel and the West Bank. They have generally been held in secret and *incommunicado* detention, for prolonged periods, without information on the reasons for their detention, limited or no access to court, and no information to their families. Referring to the large numbers of Palestinians from Gaza (and the West Bank) taken into custody by Israeli forces, and their

prolonged detention not on the basis of individually justified grounds, but of “real or perceived group characteristics”, OHCHR notes that such acts may amount to **collective punishment**, which, in context of armed conflict, constitute a **serious IHL violation** and may amount to a **war crime**.

68. The exact number and circumstances of death among Palestinian detainees in Israeli custody are unknown (allegations of torture and mistreatment have emerged) due to Israeli authorities’ refusal to provide information about the fate and whereabouts of Palestinian detainees, to provide access to ICRC (in violation of IHL), but also to release the bodies of the deceased. OHCHR underlines that withholding bodies punishes the families of the deceased and thus could amount to **collective punishment**, prohibited under IHL (Art. 50 Hague Regulations; Art. 33 GC IV). OHCHR adds it could also violate the prohibition of torture and ill-treatment, and Israel’s obligations, as an Occupying Power (Art. 27 GC IV).

Mass graves

69. In May 2024, images and reports emerged of the discovery of mass graves, in and around the Nasser and Al Shifa medical facilities in Gaza, with **several hundred bodies, including women, children and older persons**. Under IHL, **medical facilities, including hospitals, are protected infrastructure**. They are entitled to special protection **because of their function of providing care for the wounded and sick**. They **should not be the object of attack**. This protection extends to the wounded and sick as well as to medical staff and means of transport. HCHR Türk recalled that attacks on medical facilities and the intentional killing of civilians, detainees, and others who are *hors de combat* is a **war crime**.

70. HCHR Türk and UN Security Council Members alike **called for an independent, effective and transparent investigation into mass graves** discovered at the two Gaza hospitals besieged and raided by Israeli troops this year. HCHR Türk assessed that “given the **prevailing climate of impunity**”, investigations should include international investigators. To note in this context, in January 2024, the ICJ called on Israel to take effective measures to **prevent the destruction and ensure the preservation of evidence** related to allegations of genocidal acts. The ICJ reaffirmed the order in March 2024.

2. Crimes against humanity

71. Crimes against humanity are crimes committed as part of a **widespread and systematic attack against any civilian population** (whereas war crimes may be individual and isolated acts). In such circumstances, **starvation** of civilians may hence constitute a crime against humanity.

72. In February 2024, HCHR Türk underlined that almost all the population of Gaza had been **forcibly displaced**, and that thousands of people had been detained *incommunicado*. OHCHR July 2024 Detention Report notes that Israeli authorities’ “refusal to acknowledge the deprivation of liberty” and/or their “concealment of the fate or whereabouts of the disappeared person”, which place such a person outside the protection of the law, “**amounts to an enforced disappearance**”. **Forcible transfer** of population and **enforced disappearance** can constitute crimes against humanity prohibited under the Rome Statute.

73. Since 7 October, Palestinian armed groups have prevented the International Committee of the Red Cross (ICRC) from visiting the hostages, and Israel has suspended ICRC’s access to all Palestinian detainees in its custody. Under IHL (incl. Art. 143 GC IV, Art. 126 GC III), States parties to a conflict and occupying powers alike have the obligation to grant ICRC access to all places of detention where individuals (including prisoners of war) are detained. The **suspension of ICRC visits is in itself a violation of IHL**. Moreover, ICRC visits and interviews of detainees constitute safeguards against enforced disappearances, inhumane conditions of detention and ill-treatment of detainees. The

suspension of ICRC visits by Israel and Palestinian armed groups therefore raises **concerns of enforced disappearance, and inhumane conditions and treatment** for Palestinian detainees and hostages respectively.

74. The ICC Prosecutor argued that the imposition of a total siege on Gaza and evidence of Israel's intentional and systematic interference with and denial of the delivery of essential supplies and humanitarian aid were part of a common plan by Israel to use **starvation as a method of warfare**, as a means to *i.a.* **collectively punish** the civilian population of Gaza. On 20 May 2024, the ICC Prosecutor submitted that these crimes against humanity, committed by Israel as part of a **widespread and systematic attack against the Palestinian civilian population pursuant to State policy** were still ongoing.

75. OHCHR observed that the high **numbers of civilian fatalities and the scale and extent of damage to civilian objects**, both resulting from the **repeated use of explosive weapons in densely populated areas** in Gaza, taken together with reports of Israeli Defense Forces' (IDF) **expansive approach to targeting**, might be indicative of a **widespread and systematic unlawful targeting** by Israel due to erroneous interpretations of IHL, **possibly at the policy level** (2024 HCHR Accountability and Justice Report).²⁶ In its June 2024 report on Israel's use of explosive weapons with wide area effects in densely populated areas in Gaza, in **6 emblematic incidents**, OHCHR voiced **concerns about IDF's compliance with IHL**, including as to **patterns of systematic violation of the principles of necessity, distinction, proportionality, and precautions in attack**. Under the Rome Statute and as stressed by OHCHR, such violations, when committed intentionally and as part of a **widespread or systematic attack** directed against a civilian population, further to a **State or organisational policy, may implicate crimes against humanity** (OHCHR IHL Thematic Report).²⁷

3. Genocide

76. **The determination of genocide, undertaken by a competent court, can take years.** For the alleged crimes to be constitutive of the crime of genocide, the impugned acts must have been committed with **intent** to destroy, in whole or in part, a national, ethnic, racial or religious group. The determination of "intent" is a particularly difficult one to make.

77. Since 7 October, there are increased records of use of **dehumanising language**, in particular by Israeli political and military leaders, as well as by Hamas. In some cases, such statements could contribute to evidence of intent to conduct hostilities in a manner inconsistent with IHL. UN organs and the ICJ have called on Israel to take all appropriate measures within its power to prevent and punish the direct and public **incitement** to commit genocide in relation to members of the Palestinian group in the Gaza Strip. The Commission of inquiry (CoI) noted in its June 2024 report that incitement to discrimination, hostility or violence – such as that made in statements by Israeli officials – constitutes **a serious violations of IHRL** and may amount to the international crime of incitement to genocide.

78. In January 2024, the ICJ ordered provisional measures against Israel. The Court held that at least some of the rights asserted by South Africa under the Genocide Convention were **plausible**, including the **right of the Palestinians in Gaza to be protected from acts of genocide and related prohibited acts**, and that there was a real and imminent risk that irreparable prejudice would be caused to those rights before the Court gave its final decision. The ICJ also stated that many Palestinians in Gaza had

²⁶ 2024 HCHR Accountability and Justice Report, A/HRC/55/28, §29.

²⁷ OHCHR, Thematic Report - Indiscriminate and disproportionate attacks during the conflict in Gaza (October – December 2023) ("OHCHR IHL Thematic Report"), 19 June 2024.

no access to the most basic foodstuffs, potable water, electricity, essential medicines or heating. The ICJ considered that "*the catastrophic humanitarian situation in the Gaza Strip [was] at serious risk of deteriorating further.*" In March, the ICJ reaffirmed the provisional measures indicated in January and indicated additional ones, warranted by the worsening conditions of life in Gaza, "*in particular the spread of famine and starvation*". On **24 May 2024**, the ICJ noted that, despite its two Orders for provisional measures, the catastrophic humanitarian situation in the Gaza strip further deteriorated to the point of being disastrous. The Court found that the **situation arising from Israel's military offensive in Rafah and the resulting repeated large-scale displacement** of the already extremely vulnerable Palestinian population of Gaza entailed a further risk of irreparable prejudice to the plausible rights claimed by South Africa under the Genocide Convention. The Court ordered Israel to effectively and immediately implement the provisional measures previously indicated and indicated additional ones, including to "immediately halt its military offensive, and any other action in the Rafah Governorate, which may inflict on the Palestinian group in Gaza conditions of life that could bring about its physical destruction in whole or in part", maintain Rafah crossing open, and ensure the unimpeded access to UN mandated investigation.

IV. SITUATION IN THE WEST BANK

79. **In 2023, prior to 7 October attacks**, OHCHR warned that the situation in the West Bank, including East Jerusalem, was grave and extremely volatile, with record high numbers of incidents and violations. Before 7 October 2023, OHCHR already reported that 2023 had seen the highest levels of violence from Israeli Security Forces (ISF) and Israeli settlers against Palestinians since UN records began, in 2005. Numerous attacks by Palestinian armed groups (including the launch of rockets and mortars towards Israel) were also reported (OHCHR²⁸). The impact on and obstacles to the enjoyment of human rights in the OPT stemming from Israeli policies and practices is well-documented. According to OHCHR, in parallel to an increase in settler violence and measures conducive to the *de facto* annexation of the West Bank, 2023 saw **1/** an increase in the use of unnecessary or disproportionate force (military tactics and weapons) in law enforcement operations by Israeli Security Forces (ISF) resulting in a massive increase in unlawful killings of Palestinians, in a culture of impunity, **2/** mass arbitrary arrests, detentions and reported torture and other ill-treatment by ISF, raising concerns of collective punishment, **3/** exponential increase in attacks by armed settlers leading to mass displacement of Palestinian herding communities, and **4/** ongoing discriminatory movement restrictions affecting daily life and choking the local economy.²⁹

80. Based on human rights monitoring undertaken by OHCHR, in accordance with its standard methodology on human rights monitoring, which involves the gathering and corroboration of information from multiple independent sources in order to establish the facts and analyse violations, OHCHR reported human rights violations committed by **all duty bearers (Israel, PA, *de facto* authorities, Israeli settlers)**. They include: killings, mainly by Israeli forces (including during large-scale Israeli operations using airstrikes, heavy deployment of personnel on the ground, bulldozers, snipers and special forces in highly populated areas), but also by Israeli civilian settlers and by Palestinians, collective punishment (e.g. house demolitions, settler violence), systematic discrimination of Palestinians, persistent climate of impunity, and shrinking space for civil society.

81. The long-standing negative trends of discrimination, oppression, and violence against Palestinians have drastically worsened since 7 October, with mounting tension between Palestinians and Israelis (including settler violence) and sustained settlement expansion, as the reporting by OHCHR and UN OCHA illustrate.

82. **After October 7 attacks, reported violations include excessive and other unlawful use of force and attacks** against protected persons, attacks by Israeli settlers, both resulting in Palestinian fatalities and casualties, killings of Israeli military and civilians, grave violations against children, including killing and maiming of children, denial of humanitarian access (incl. to seek specialised medical treatment) and attacks on schools and hospitals, settlements and related violations, arbitrary or unlawful arrest and detention and ill-treatment (see below), and gender-based violence.

A. Settlements and related human rights violations

83. **As repeatedly stated by the UN and the EU alike: settlements are illegal under international law.** On 19 July 2024, the ICJ issued its Advisory Opinion on the Legal Consequences arising from

²⁸ Report of the UN High Commissioner for Human Rights, “Human rights situation in the Occupied Palestinian Territory, including East Jerusalem, and the obligation to ensure accountability and justice”, [A/HRC/52/75](#), 13 February 2023.

²⁹ OHCHR, Flash Report – The human rights situation in OPT, 7 October - 20 November 2023.

the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem (*"Policies & Practices"*). The Court identified **six types of international law violations associated with Israel's settlement policy**: 1/ **transfer** by Israel of its own population (settlers) to the West Bank; 2/ **confiscation and requisitioning** of land in occupied territory; 3/ **exploitation of natural resources**; 4/ **extension of Israel's law** to OPT; 5/ **forcible transfer** of Palestinians; and 6/ **settler violence**. Referring to the maintenance and expansion of settlements, the construction of associated infrastructure (e.g. wall), the exploitation of natural resources, the proclamation of Jerusalem as Israel's capital, and the extension of Israeli law to the West Bank and East Jerusalem, the ICJ considers that these policies and practices amount to **annexation** of large parts of the OPT and are contrary to the **prohibition of the use of force** in international relations and its corollary principle of the **non-acquisition of territory by force**.

84. The Court also found that the *régime* of comprehensive restrictions imposed by Israel on Palestinians in the OPT (e.g. residence permit policy, restrictions on movement and demolition of properties) constitutes **systemic discrimination** based on, *inter alia*, race, religion or ethnic origin, and is in violation of international human rights treaties binding upon Israel. The Court adds that Israel's policies and practices in the West Bank and East Jerusalem implement a **near-complete separation, both physical and juridical**, between the Palestinian population and the settlers. The Court considers that Israel's legislation and measures constitute a **breach of Article 3 of CERD** (prohibition of **racial segregation** and **apartheid**). The Court also considered that Israel's "unlawful policies and practices" are in breach of Israel's obligation to respect the **right of the Palestinian people to self-determination**.

85. Some of the violations identified by the ICJ amount to **crimes under international law**. As consistently stated by competent UN organs, the **transfer** by Israel, as the Occupying Power, of its own civilian population into the territory it occupies is strictly prohibited under IHL and constitutes a **war crime** that may engage the individual criminal responsibility of those involved. As also noted by the ICJ, settlements also imply the **unlawful seizure of land** and the **displacement of Palestinians** from their homes and lands, which, according to *i.a.* OHCHR³⁰, could amount to **forcible transfer**, which constitutes a **crime under international law**³¹. Under the Statute of the International Criminal Court, "*the deportation or transfer [by the Occupying Power] of all or parts of the population of the occupied territory within or outside this territory*" constitutes a **war crime**.

86. The advancement of settlement plans in the West Bank and East Jerusalem however steadily increased since 2018, together with its correlate: settler violence. Year after year, record high numbers of settlements and demolitions are documented. Already prior to October 7, 2023 had been the most violent and repressive year in the West Bank, and settlements grew. According to OHCHR (February 2024 report on settlements), in 2022-2023, Israel adopted **legal reforms and policy initiatives**³² **which could facilitate the annexation of the West Bank**, in violation of international law, including the UN Charter. Despite wartime expenses, the Israeli government continues to allocate budget to

³⁰ UN Human Rights Council, Report of the United Nations High Commissioner for Human Rights, "Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan", [A/HRC/55/72](#), 1 February 2024.

³¹ Geneva Convention IV, article 49, ICC Statute Article 7(1)(d) and Article 8(2)(b)(viii).

³² The Government of Israel, in its guiding principles, expressly claimed the "exclusive and indisputable right" of the Jewish people to "all parts of the Land of Israel", including the West Bank and the Syrian Golan. The coalition agreements also indicated that the Government would promote a policy of "application of sovereignty" over the West Bank through institutional and legislative changes and major settlement expansion, including through the "regularization" of settler outposts. An amendment of the Constitution to create the post of "Additional Minister", who supervises a newly created and staffed Settlement Administration unit.

support its settlement expansion policy, including in the amended 2024 State Budget. Thousands of new housing units have been approved by the Israeli High Planning Committee to be built in the West Bank and East Jerusalem, further expanding illegal settlements across the OPT.

87. According to the UN, **in 2023, around 4,000 Palestinians were displaced due to policies and practices implemented by the Israeli authorities or Israeli settlers**, all contributing to a coercive environment in the West Bank, including East Jerusalem, in many cases with the clear intention to permanently transfer them from their homes. A new trend since 2023 is the **forced displacement of entire Palestinian Bedouin communities**, involving *i.a.* repeated settler attacks as well as large demolition operations by Israeli authorities, especially in the Jordan Valley corridor and outside Ramallah. The EU has issued sanctions in this context.

88. Late April 2024, HCHR Türk stated that **grave human rights violations were continuing unabated in the occupied West Bank**, recalling the massive settler attacks from 12-14 April, facilitated by the Israeli Security Forces (ISF). Despite international condemnation, “*settler violence has continued with the support, protection, and participation of the ISF*.” Between 7 October 2023 and 7 October 2024, UN OCHA documented about 1,454 attacks by Israeli settlers against Palestinians, of which 144 led to Palestinian casualties, 1,158 led to damage to Palestinian property, and 152 led to both. As of 6 November 2024, at least 13 Palestinians were killed, all by live ammunition, and 392 injured by Israeli civilian settlers since 7 October attacks. The UN have repeatedly deplored the prevailing climate of **impunity** in which settler violence occurs and called for accountability.

89. The 2024 UN Secretary-General Annual Report on Children and Armed Conflict found grave abuses by Israeli forces in the West Bank, with 126 Palestinian children killed and 906 detained. The UN verified 5 cases where soldiers used boys “*to shield forces during law enforcement operations*”. The UN also found that Israeli settlers were responsible in 51 cases of violations against children.

90. While the prolonged Israeli occupation negatively impacts the lives of all Palestinians, it has particularly far-reaching repercussions for **women and girls**, according to UN entities, including OHCHR, who have highlighted that Palestinian women and girls face unique and compounded challenges due to the occupation. These challenges include gender-based violence, restricted access to essential services such as healthcare and education, and economic hardships exacerbated by movement restrictions and the presence of the Israeli military and settlers. The vulnerability of women and girls to violence, including domestic violence, is reportedly often aggravated by the broader conflict-related violence and instability. Additionally, according to OHCHR, the legal framework and prevailing patriarchal norms and practices within Palestinian society often fail to adequately protect women's rights, further contributing to their marginalisation and suffering³³. OHCHR has also documented that women and girls have been particularly targeted by settler attacks in their homes during the day, when men were absent. OHCHR found that this constant risk of attacks and the duty to protect their family and house in the event of an attack have kept women confined to the domestic environment, thus reinforcing negative aspects of traditional gender roles.³⁴

B. Detention

³³ Report of the UN High Commissioner for Human Rights, “Situation in the Occupied Palestinian Territory, including East Jerusalem, and the Obligation to Ensure Accountability and Justice”, [A/HRC/40/42](#), 30 January 2019.

³⁴ Report of the UN High Commissioner for Human Rights, “Implementation of Human Rights Council resolutions S-9/1 and S-12/1”, [A/HRC/46/63](#), 11 February 2021 (§11 and references cited).

91. See above para. 66s.

92. Israel's practices of **administrative detention, and other forms of arbitrary detention**, of Palestinians substantially increased in 2023 already. OHCHR provided detailed information on these issues in the 2024 HCHR Accountability and Justice Report.³⁵ After 7 October, Israeli security forces conducted **thousands of mass, reportedly preemptive, detentions of Palestinians**, including political figures, community leaders, activists, including women's human rights defenders, journalists, students, and family members of wanted persons. Arrests reportedly often involved violence, beatings, humiliation and **inhuman and degrading treatment** in some cases amounting to **torture**. Although Israel had already announced **measures to worsen the conditions of detention for Palestinians** in February 2023, after October 7, those conditions significantly deteriorated again, with the Israeli Government further restricting access to food, water, sanitation and electricity, medical treatment, media and information, family visits and the right to consult with legal representatives. Many detainees, including children, the elderly, and women, were subjected to violence that in some cases, OHCHR found, may have amounted to **torture or other ill-treatment**.

93. Moreover, according to OHCHR, as of 11 October, Israel revoked the medical treatment and work permits of at least **4,000 Palestinians from Gaza, lawful residents of Israel**. They were **detained incommunicado in Israeli army camps in the West Bank** for weeks, without trial or charge. Israel failed to disclose information about their fate and whereabouts to their relatives, which, according to OHCHR, raises concerns of **enforced disappearance**. Israeli military has since released most of them back to Gaza. Allegations of **inhuman conditions of detention** were made by released detainees, who evoked threats of rape, being held without clothes or access to toilets, and being deprived of food and water.

94. The exact number and circumstances of death among Palestinian detainees in Israeli custody are unknown (allegations of torture and mistreatment have emerged) due to Israeli authorities' refusal to provide information about the fate and whereabouts of Palestinian detainees, to provide access to ICRC, but also to release the bodies of the deceased. OHCHR underlines that **withholding bodies** punishes the families of the deceased and thus could amount to **collective punishment**, prohibited under **IHL** (Art. 50 Hague Regulations; Art. 33 GC IV). OHCHR adds it could also violate the prohibition of **torture and ill-treatment**, and Israel's obligations, as an Occupying Power (Art. 27 GC IV).

C. Excessive and other unlawful use of force and attacks by Israeli forces

95. According to UN OCHA, between 7 October 2023 and 6 November 2024 in the West Bank, **Israeli forces killed 712 Palestinians, including at least 164 children**, mainly by live ammunition, and injured more than 6,000 Palestinians, mainly with live ammunition or tear gas inhalation, but also physical assault.

96. In June 2024, HCHR Türk reported that despite the absence of armed hostilities in the occupied West Bank, Israeli security forces (ISF) carried out at least **29 massive incursions** into the West Bank – particularly in Jenin (including Jenin refugee camp), Nur Shams camp, and Tulkarm camp. Those militarised operations using **airstrikes** by planes and unmanned aerial vehicles (UAV), the firing of **ground-to-ground missiles, deployment of ISF personnel** on the ground on **refugee camps and other densely populated areas** have killed **164 Palestinians, including 35 children**. According to HCHR Türk, in the vast majority of more than 80 cases OHCHR monitored, use of force by Israeli security forces did not comply with the requirements of legality, necessity and proportionality. The intentional killing of protected persons or the use of firearms causing the death of persons not posing

³⁵ 2024 HCHR Accountability and Justice Report, [A/HRC/55/28](#).

an imminent threat to life or a threat to cause serious injury constitute **arbitrary deprivation of life**, and may also amount to **wilful killing, a war crime in the context of occupation**. Monitored cases also showed a systematic denial or delaying of medical assistance for the duration of the ISF operation.³⁶

97. UN OCHA reported that, between 21 and 23 May 2024, Israeli forces carried out a 40-hour operation in Jenin Refugee Camp and its surroundings, during which they killed 12 Palestinians with live ammunition, including 4 children, and injured 21 others. Israeli forces besieged the camp, exchanged fire with armed Palestinians, and denied or hindered access to medical assistance. According to the rapid assessment of a UN-led inter-cluster mission, the bulldozing of roads by ISF caused damage to water and sewage networks and resulted in severe water and electricity outages for three days, affecting 80 per cent of the camp's residents (est. 23,600 people), 40 per cent of which were still without water as of 29 May.

³⁶ See OHCHR Press Release, "[Occupied Palestinian Territory: Türk condemns over 500 West Bank killings, calls for accountability](#)", 4 June 2024;

V. SITUATION IN LEBANON

98. Since 7 October 2023, cross-border attacks on northern Israel from Lebanon and Syria by Hezbollah and other Iran-backed armed groups reportedly caused death and injury to dozens of people in northern Israel and the displacement of thousands of civilians. They were met with Israeli strikes. Since April 2024, a series of air strikes either attributed to or officially acknowledged by Israel killed senior Iranian, Hezbollah, and Hamas military officials in cities in Syria, Lebanon (Beirut) and Iran (Tehran). Each was followed by rockets, missiles and / or drones being launched on Israel, by Hezbollah and Iran, most of which were intercepted by the Iron Dome anti-missile defence system.

99. On 17 and 18 September 2024, Israel detonated communication devices in Lebanon and Syria (*see below*). These attacks were followed by a large number of Israeli airstrikes in Southern Lebanon (including Hezbollah rocket launchers and other military infrastructures as well as residential buildings) and in the capital city of Beirut. Meanwhile, Hezbollah kept firing rockets, drones and a few long-range missiles at Israel, most of which were intercepted. Late September, Israel conducted an air strike on the Lebanese capital, Beirut, killing Hezbollah Secretary General Sheikh Hassan Nasrallah. This led to a further escalation of the exchange of fire between Israel, Hezbollah and Iran, with large numbers of rockets and missiles being launched into Israel by Hezbollah (one of which resulted in one civilian casualty in Israel) and Iran. In the night of 1-2 November 2024, a month after a 180 missile strike by Iran on Israel, Israel launched an attack by air (military jets and drones) on Iran, striking military targets in Iran: air defences, missile and drone production as well as launch facilities.

100. The use of **inherently indiscriminate projectiles, such as rockets**, is prohibited under IHL. Their use by Hezbollah violates **IHL** and may constitute a **war crime**.

101. **Hezbollah Military Wing** has been **listed as a terrorist organisation** by the EU since July 2013.

102. After months of exchanges of air strikes between Hezbollah and Israel along the Israel-Lebanon border, international observers issue recurring reports of **attacks on civilian infrastructures**, including **hospitals, ambulances** and schools – along with destruction of housing and banks. The World Health Organisation (WHO) reported that between 17 September and 31 October 2024, 36 attacks on healthcare facilities occurred, with 85 health workers killed and 51 injured while on duty. According to OCHA, the destruction of critical infrastructures, such as healthcare, exacerbates the toll on the Lebanese population.

103. On 7 November 2024, OCHA reported that the number and impact of Israeli airstrikes continued to escalate across multiple regions of Lebanon, killing 3,103 people, including **192 children**, and injuring more than 13,819 since 8 October 2023. A series of statements have condemned Israel's military campaign in Lebanon, including by OHCHR, expressing concerns with respect to **IHL** and calling for prompt and independent thorough investigation into the bombing of residential buildings. OCHA referred to the **displacement** of 1.3 million people (figure updated in November 2024) as the "*worst humanitarian crisis in decades*" and defined **attacks on health facilities as IHL violations**. Two thirds of the displaced remain in Lebanon (IDPs), and a third crossed into Syria. The level of displacement indeed surpasses levels reached during the 2006 war (FAO-WFP).

104. According to UNICEF, the ongoing conflict has a devastating physical and emotional impact on children. "*Since 4 October 2024, at least one child has been killed and 10 injured daily in the country.*"

105. According to the Food and Agriculture Organization of the United Nations (FAO) and the World Food Programme (WFP), Lebanon is classified as **a hotspot of very high concern**, with large

numbers of people facing or projected to face **critical levels of acute food insecurity**. The number of people facing acute food insecurity, including at Emergency levels (IPC Phase 4), is expected to rise significantly between November 2024 and May 2025, due to the unfolding military ground operation in southern Lebanon and airstrikes across the southern and central regions and suburbs of Beirut, and economic deterioration.

106. The impact of the conflict on the agriculture sector is expected to exacerbate food insecurity and economic deterioration. The **agriculture** sector for around 80 percent of southern Lebanon's GDP, with 70 percent of families in the southern regions depending on it (FAO). According to FAO³⁷, the ongoing escalation of the conflict is causing widespread damage to agricultural lands, assets and infrastructure, exacerbating vulnerabilities of agriculture-dependent communities and compounding the pre-existing severe food security crisis nationwide. Reportedly, more than 1,900 hectares of farmland in southern governorates have been damaged or remain unharvested due to the ongoing conflict.

107. Attacks on **UN personnel and infrastructures** (UNIFIL) have also been widely condemned, including by UNSG Guterres.

Pagers and radio attacks

108. On 17 and 18 September, **pagers and radio devices were detonated across Lebanon and Syria, killing at least 42 people, including children and medical personnel, and injuring more than 3,500 persons**, leaving many with permanent disabilities. The explosions occurred on marketplaces, streets, and in homes, while some unexploded devices were reportedly dismantled in universities and hospitals. The attacks have drawn political condemnation including by UN High Commissioner for Human Rights Volker Türk, whose strong statement was echoed by the EU HRVP. HCHR Türk observed that such simultaneous attack on thousands of individuals, conducted without knowledge as to who was in possession of the targeted devices, their location and their surroundings at the time of the detonation, "*violates international human rights law and, to the extent applicable, international humanitarian law.*"

Under international human rights law (IHRL), which is applicable at all times, the use of weapons is subject to **requirements of necessity and proportionality**.

IHL applies as soon as an armed conflict arises and binds all the belligerents to fully comply with it. Under IHL, belligerents have the **duty to respect core human rights in the planning and conduct of their military operations**, in order to spare civilians and protect civilian objects. To do so, they must strictly adhere to the **IHL principles of military necessity, distinction, proportionality, and precautions in attack**.

IHL prohibits **weapons that are indiscriminate by nature**, *i.e.* because they **cannot distinguish** between civilians and military objectives, or their effects cannot be limited as required by IHL.

Persons not exercising a continuous combat function in an armed group can only be targeted when taking a **direct part** in hostilities.

109. More information is needed on the attacks, as well as on the victims, notably the ratio of members of Hezbollah's military wing among them. However, based on available reporting, the **simultaneous remote detonation of multiple portable devices, in different locations, seemingly fails to distinguish between Hezbollah fighters and civilians, in contradiction to both IHRL and**

³⁷ FAO, [Lebanon: Emergency appeal](#), October 2024.

IHL. Besides, the use of apparently harmless portable devices, such as pagers and radios, to carry explosives appears to fall under the **prohibition of booby-traps**.

Bombardments / Air strikes in densely populated areas

110. Reports indicate that Israeli air strikes have hit the South of Lebanon as well as the densely populated Lebanese capital, Beirut, causing hundreds of fatalities, injuring thousands, and displacing over a million people throughout the country and into neighbouring countries.

111. In October 2024, HCHR Türk denounced “*Israel’s daily strikes on residential buildings in urban areas (...) taking an **appalling toll on civilian lives**, with significant numbers of **casualties, destruction and displacement***”³⁸.

Attacks on health personnel and infrastructures

112. *See* applicable norms above (para. 63s).

113. Between 17 September and 23 October, at least 23 verified attacks on health care took place in Lebanon (WHO), killing 72 and injuring 43 among health workers and patients. Almost half (100) of the 207 primary health centres and dispensaries in areas affected by conflict are now closed.

114. On Monday 21 October, an Israeli strike near Rafik Hariri University Hospital in Beirut’s densely populated Jnah neighbourhood reportedly killed 18 people, including 4 children, wounded 60 others, and damaged the hospital infrastructure. HCHR Türk underlined **fundamental principles of IHL** applicable in the conduct of military operations. Under the principle of precautions, “*all feasible precautions must be taken to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects*”. HCHR Türk recalled the **special protection** which hospitals, ambulances and medical personnel enjoy under IHL. It imposes on belligerents conducting military operations in the vicinity of hospitals to assess the expected impact on healthcare services in relation to the **principles of proportionality and precautions**. Lastly, HCHR underlined that any incidents which affect hospitals must be subjected to a prompt and thorough **investigation**.

Attacks on UN personnel and infrastructures – UNIFIL

115. Israeli attacks have been reported on UN personnel and infrastructures. UNIFIL has called these incidents a “flagrant violation of international law”. HCHR Türk has warned that **attacks against UN peacekeepers are in breach of international law** – and may also constitute **war crimes**³⁹.

116. On the alleged use of UN positions by Hezbollah to shield its operations, *see* above para. 43 on “human shields”.

³⁸ OHCHR, [Statement](#) delivered by Volker Türk, UN High Commissioner for Human Rights, 17 October 2024.

³⁹ Rome Statute Art. 8(2)(e)(iii).

VI. OBLIGATIONS OF ALL STATES UNDER INTERNATIONAL LAW, INCLUDING IHL

A. Support to the United Nations

117. Under the **UN Charter**, all UN Member States are required to fulfil their Charter obligations in good faith, to cooperate, respect and support the work of UN organs.

B. Support to the International Court of Justice

118. **All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice (ICJ)**. Under the UN Charter, all UN Member States are required to cooperate with, respect and support the work of the ICJ, as the principal judicial organ of the UN. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.

119. Judgments delivered by the Court (or by one of its Chambers) in disputes between States are binding upon the parties concerned. Orders on provisional measures have binding effect and thus create international legal obligations for any party to whom the provisional measures are addressed.

120. The EU has repeatedly reasserted its support to the International Court of Justice, as the principal judicial organ of the United Nations.

C. Support to the International Criminal Court

121. **All State Parties to the Rome Statute** are bound to support and cooperate fully with the Court in its investigation and prosecution of crimes within its jurisdiction.

122. The **EU and its Member States** are committed to uphold the rule of law, whether at the ICC or in their national courts, in their actions domestically and through their foreign policy. The EU and its Member States are strongly committed to international criminal justice and the fight against impunity, in particular the International Criminal Court and the principles set out in the Rome Statute. In June 2023, on the occasion of the 25th anniversary of the adoption of the Rome Statute, the European Council reiterated the EU and EUMS' commitment to provide the ICC with all necessary support and respect the Court's independence and impartiality, as well as its effective and efficient functioning (Council Conclusions 11082/23).

D. Obligations of non-recognition and not to render aid or assistance

123. On 19 July, the ICJ delivered its Advisory Opinion on the legal consequences arising from the policies and practices of Israel in the OPT (*see above* ICJ findings on settlements). The Court found that **Israel's continued presence in the OPT is unlawful** – which entails Israel's international responsibility. The Court identified legal obligations for Israel, but also for all States and for international organisations: **A/ Israel is under an obligation 1/ to bring to an end its unlawful presence in the OPT as rapidly as possible, 2/ to cease immediately all new settlement activities, and to evacuate all settlers from the OPT, and 3/ to make reparation for the damage caused to all the natural or legal persons concerned in the OPT; B/ all States are under an obligation not to render aid or assistance in maintaining the situation created by this unlawful presence; C/ all States and international organisations are under an obligation not to recognise this situation as legal.**

124. The EU took note of these conclusions and committed to analyse the Advisory Opinion, including in view of its implications for EU policy (HRVP Statement 20 July 2024).

125. Unlike ICJ judgements, advisory opinions are not legally binding, however, the Court being the “*principal judicial organ of the United Nations*”, they do constitute an authoritative determination and clarification of international law. Moreover, the Court’s conclusions and the obligations it identifies for States and international organisations are based on existing treaties, customary international law and general principles of international law, and the legally binding obligations they enshrine.

126. The Court’s conclusion touches upon the obligations of third States. The Court identifies an **obligation of non-recognition**, and the **duty for all States to distinguish**, in their dealings with Israel, between Israel and the OPT. The duty to distinguish entails corollary obligations, including: 1/ to abstain from treaty relations with Israel in all cases in which it purports to act on behalf of the OPT or a part thereof on matters concerning the OPT or a part of its territory; 2/ to abstain from entering into economic or trade dealings with Israel concerning the OPT or parts thereof which may entrench Israel’s unlawful presence in the territory; 3/ to abstain, in the establishment and maintenance of diplomatic missions in Israel, from any recognition of its illegal presence in the OPT; and 4/ to take steps to prevent trade or investment relations that assist in the maintenance of the illegal situation created by Israel in the OPT.

127. The Court also identified the **obligation** for all States **not to render aid or assistance in maintaining the situation created by Israel’s illegal presence in the OPT**. This obligation is broader in scope than the obligation to take steps to prevent trade or investment relations that assist in the maintenance of the illegal situation. This obligation is derived from the law of State responsibility⁴⁰, and has been interpreted as entailing *i.a.* an obligation to take **all necessary measures to prevent the sale and supply of military equipment** (cf. *UNSC Resolution 218*, 23 Nov. 1965, *Question of the situation in the Territories under Portuguese administration*).

128. Finally, the Court notes that all the States parties to the Fourth Geneva Convention (which is universally ratified) have the **obligation to ensure compliance by Israel with IHL**.

E. Respect and ensure respect for IHL

129. Under Article 1, common to the four Geneva Conventions, **State Parties have the obligation to respect and to ensure respect for the rules** laid down in the **Geneva Conventions**, in all circumstances. The ICJ reiterated it in its July 2024 Advisory Opinion. What this obligation entails is subject to discussions but according to most commentators, including OHCHR, this obligation includes 1/ **taking all available steps to ensure full compliance by belligerents** and 2/ **the obligation for States who are not parties to the conflict not to facilitate**, through their own policies or actions, the commission of IHL violations.

130. Arms sales: under the **Arms Trade Treaty** (ATT, Article 6), a State Party shall not **authorize** any transfer of certain conventional arms (defined in the ATT), if it has knowledge **at the time of authorization** that the arms or items would be used in commission of genocide, crimes against humanity, grave breaches of Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes as defined by international agreements to which it is a Party. The provision does not *per se* prohibit the actual transfer of arms, provided it has been authorised prior to the commission of atrocity crimes (or to the authorising’s State’ knowledge of it). Similarly, under the **Council Common Position 2008/944/CFSP** of 8 December 2008 defining common rules governing control of exports of military technology and equipment, EU Member States

⁴⁰ Draft articles on Responsibility of States for Internationally Wrongful Acts, Article 41(2), and commentaries.

shall deny an **export licence** if there is a clear risk that the military technology or equipment to be exported might be used in the commission of serious violations of international humanitarian law.

131. **Under IHL**, according to the prevailing interpretation of Geneva Conventions Common Article 1 (including by OHCHR), States have the negative obligation **not to aid or assist in IHL violations by Parties to a conflict**. This obligation not to enable IHL violations is formulated in broad terms. It entails the **prohibition of transfer to a party to a conflict of arms that may be used to commit serious violations of IHL** (irrespective of whether this transfer had received prior authorisation / export licence).

132. In November 2024, 15 principals of UN and humanitarian organisations, members of the Inter-Agency Standing Committee, appealed on all UN Member States to use their leverage to ensure respect for international law, including by “*withholding arms transfers where there is a clear risk that such arms will be used in violation of international law*”.

133. In February 2024, a Court in the **Netherlands** ordered the Dutch government to halt the delivery of F-35 parts used by Israel in Gaza. This decision reaffirmed the importance of States’ obligations under Geneva Conventions (Common Article 1) and the Arms Trade Treaty (ATT, Article 6).