

# The Prevention of Genocide and other Grave Crimes against Humanity against Palestinians

National Lawyers Guild, ICC Press Release Update 4 March 2015

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Region: [Middle East & North Africa](#)

Theme: [Crimes against Humanity](#), [Law and Justice](#)

In-depth Report: [PALESTINE](#)

*On 2 March 2015, we sent a 'Cease and Desist Order' to the Prosecutor at the International Criminal Court (also copied to the Chancery Department, Royal Courts of Justice, London), under Article 15 of her jurisdiction, and in relation to the notification and claim submitted in August 2014 for the prevention of genocide and other grave crimes against humanity against Palestinians, with particular reference to:*

1948 Convention on the Prevention and Punishment of Genocide in relation to Israelis' actions and continuing against Palestinians (indigenous population)

General Assembly's Uniting for Peace Resolution of 1950

Articles 15, 5, 6, 7, 8, 27, 28 and 29 of the Statute of Rome

This claim was accepted on 11 August 2014 with the following reference: OTP-CR-249/14. Should you wish to submit evidence, please do so under this reference, or start your own action under Article 15 (and 15.3, if you have been a victim of Israeli crimes against humanity, including collective punishment).

This 'Cease and Desist Order' was also issued in view of Israeli stated policies (for instance "Dahiya Doctrine" to destroy whole neighbourhoods and civilians, as identified in the Goldstone Report of 2009, and for which the Palestinian Authority requested an investigation by the ICC in 2009), and Knesset speakers' remarks about the containment and extermination of Palestinians.

The letter and text of the Order reads as follows:

Dear Prosecutor at the ICC

Further to our application for urgent relief for continuing crimes against humanity, and our 23-page claim (4 Aug 2014), our 51-page claim (8 Aug 2014), our request for urgent disclosure (17 Aug 2014), and our details and evidence of Zionist leaders' (declared) genocidal intent and acts against the indigenous population of Palestine before the creation of the State of Israel, and most recently with the 'Dahiya Doctrine' ("the application of disproportionate force and causing of great damage and destruction to civilian property and infrastructure, and suffering to civilian populations": UN Commission for Human Rights, 2009) ordered and carried out on besieged and captive Gazans from 8 July 2014 with

damage and destruction not remedied, and the announcement of more US funding to aid and abet such massive, systematic and sustained CRIMES AGAINST HUMANITY as have been COMMISSIONED BY ISRAELI OFFICIALS AND COMMANDERS AS HAVE BEEN HAPPENING SINCE 1947, and with preparations once again afoot for another genocidal attack against besieged and captive Palestinians, we seek the following CEASE AND DESIST ORDER with immediate effect:

1.Immediate lifting of the Blockade and siege against captive civilians in Gaza. This blockade constitutes collective punishment and is a prima facie GRAVE crime against humanity.

2.Prevention of all targeted assassinations of Palestinians (the indigenous population), including minors, and of people assisting Palestinians. We further seek accountability, punishment and redresses for such grave crimes against humanity.

3.Prevention of the targeted harassment, injuring and killing of Palestinians, such as fishermen and farmers who are going about their lawful and necessary work. We further seek accountability, punishment and redresses for such grave crimes against humanity.

4.Prevention of the kidnapping of Palestinians including minors and of people assisting Palestinians. In Feb 2015, 285 Palestinians have been kidnapped. We further seek accountability, punishment and redresses for such grave crimes against humanity.

5.Prevention of the extreme targeting, punishment and collective punishment of Palestinians including minors who throw stones as a means of self-defence against an occupying and brutal and fully armed force. We further seek accountability, punishment and redresses for such grave crimes against humanity.

6.Prevention of torture of Palestinians including minors. We further seek accountability, punishment and redresses for such grave crimes against humanity.

7.Prevention of inhumane, degrading and humiliating treatment of Palestinians, including minors, and of people assisting them. We further seek accountability, punishment and redresses for such grave crimes against humanity.

8.Prevention of theft of Palestinian resources, including water. We draw particular attention to the area of Salfit and the way this theft for the 23 illegal settlements surrounding it, has resulted in ethnic cleansing and pollution of this area of fruit plantations and natural beauty. We further seek redresses for such grave crimes against humanity which have deprived Palestinians of their houses, farming lands, and severed centuries' old communities.

9.Prevention of further construction of the Separation Wall and an Order to demolish it. This Wall was deemed illegal by the International Court of Justice in 2004. We further seek accountability, punishment redresses for such grave crimes against humanity which have deprived Palestinians of their houses, farming lands, and severed centuries' old communities.

10.Prevention of all settlement expansion. Such expansion has long been regarded as illegal under international law. This has accelerated tremendously since the Palestinian Authority agreed to US-brokered peace talks from 2013 onwards, and especially since the "truce" of August 2014. We further seek accountability, punishment redresses for such grave crimes against humanity which have deprived Palestinians of their houses, farming lands, and

severed centuries' old communities.

11.Prevention of all house demolitions against the Palestinians. Such collective punishment is deemed a prima facie crime and also falls within the ICC's jurisdiction. We further seek accountability, punishment and redresses for such grave crimes against humanity.

12.Prevention of violations of the Aqsa Mosque. There is a declared and commissioned policy to destroy the Mosque. Palestinians are wrongfully prevented from or are severely restricted from worshipping there.

Yours Sincerely  
Dr Joanne Maria McNally  
LAWYER

## BRIEF SUMMARY OF GRAVE CRIMES AGAINST HUMANITY

### War crimes

(Please see our evidence submitted from 2 Aug 2014 onwards, and also, below, that of Marjorie Cohn, a professor at Thomas Jefferson School of Law and past President of the National Lawyers Guild, deputy secretary general for external communications of the International Association of Democratic Lawyers, and the U.S. representative to the executive committee of the American Association of Jurists.)

(1) Willful killing: Israeli forces have [killed](#) nearly 2,000 Palestinians (more than [400 children](#) and over 80% civilians). Israel used 155-millimeter artillery, which, [according to](#) Human Rights Watch, is "utterly inappropriate in a densely populated area, because this kind of artillery is considered accurate if it lands anywhere within a 50-meter radius."

(2) Willfully causing great suffering or serious injury to body or health: Nearly [10,000 people](#), 2,500 of them children, have been wounded. Naban Abu Shaar [told](#) the Daily Beast that the dead bodies from what appeared to be a "mass execution" in Khuza'a looked like they were "melted" and were piled on top of each other; assault rifle bullet casings found in the house were marked "IMI" (Israel Military Industries). UNICEF [said](#) the Israeli offensive has had a "catastrophic and tragic impact" on children in Gaza; about 373,000 children have had traumatic experiences and need psychological help. The UN Relief and Works Agency for Palestine Refugees (UNRWA) [said](#): "There's a public health catastrophe going on. You know, most of the medical facilities in Gaza are non-operational."

(3) Unlawful and wanton, extensive destruction and appropriation of property not justified by military necessity: Tens of thousands of Palestinians have [lost their homes](#). More than 1,300 buildings were destroyed and 752 were severely damaged. Damage to sewer and water infrastructure has [affected](#) two-thirds of Gazans. On July 20, Israeli forces virtually flattened the small town of Khuza'a; one man [counted](#) 360 shell attacks in one hour. Reconstruction of Gaza is estimated to [cost](#) \$6 billion. Israel [shrunk](#) Gaza's habitable land mass by 44 percent, establishing a 3 km "no-go" zone for Palestinians; 147 square miles of land will be compressed into 82 square miles. Oxfam [described](#) the level of destruction as "outrageous ... much worse than anything we have seen in previous [Israeli] military operations."

(4) Willfully depriving a prisoner of war or a civilian the rights of fair and regular trial: Nearly

2,000 Palestinians were arrested by Israeli forces during July 2014, [according](#) to the Palestinian Prisoners Center for Studies. Prisoners include 15 members of the Palestinian Legislative Council, about 240 children, dozens of women, journalists, activists, academics and 62 former prisoners previously released in a prisoner exchange. Israeli forces executed many prisoners after arrest, either by directly firing on them, refusing to allow treatment or allowing them to bleed to death. More than 445 prisoners are being held without charge or trial under administrative detention.

(5) Intentionally directing attacks against the civilian population, civilian objects, or humanitarian vehicles, installations and personnel: “The civilian population in the Gaza Strip is under direct attack,” [reads](#) a joint declaration of over 150 international law experts. Israeli forces violated the principle of “distinction,” which forbids deliberate attacks on civilians or civilian objects. Israeli forces bombed 142 schools (89 run by the UN), including six UN schools in which civilians were taking refuge. Israeli forces shot and killed fleeing civilians (warnings, which must effectively give civilians time to flee before bombing, do not relieve Israel from its legal obligations not to target civilians). Israeli forces repeatedly bombed Gaza’s only power plant and other infrastructure, which are “beyond repair.” Israeli forces [bombed](#) one-third of Gaza’s hospitals, 14 primary healthcare clinics and 29 ambulances. At least five medical staff were killed and tens of others were injured.

(6) Intentionally launching attacks with knowledge they will cause incidental loss of life or injury to civilians or damage to civilian objects or long-term severe damage to the natural environment, if they are clearly excessive in relation to the anticipated military advantage: The principle of “proportionality” forbids disproportionate and excessive civilian casualties compared to the claimed military advantage gained in the attack. The Dahiye Doctrine directly [violates](#) this principle. Responding to Hamas’ rockets with 155-millimeter artillery is [disproportionate](#). Although nearly 2,000 Palestinians (over 80 percent civilians) [have been killed](#), 67 Israelis (all but three of them soldiers) have been killed. The coordinates of all UN facilities were [repeatedly communicated](#) to the Israeli forces; they nevertheless [bombed](#) them multiple times. Civilians were [attacked](#) in Shuja’iyyah market.

(7) Attacking or bombarding undefended towns, villages, dwellings or buildings, or intentionally attacking religious, educational and medical buildings, which are not military objectives: On July 20, Israeli forces virtually flattened the small town of Khuza’a; one man [counted](#) 360 shell attacks in one hour. Israeli forces [bombed](#) 142 schools (89 run by the UN), one-third of Gaza’s hospitals, 14 primary healthcare clinics, and [29 ambulances](#). Israeli shelling completely [destroyed](#) 41 mosques and partially destroyed 120 mosques.

## Genocide

(a) With the intent to destroy, in whole or in part, a national, ethnical, racial or religious group: Palestinians, including primarily civilians, and Palestinian infrastructure necessary to sustain life were deliberately targeted by Israeli forces.

(b) The commission of any of the following acts

(i) killing members of the group: Israeli forces [killed](#) nearly 2,000 Palestinians.

(ii) causing serious bodily or mental harm to members of the group: [Israeli forces wounded](#) 10,000 Palestinians.

(iii) deliberately inflicting on the group conditions of life calculated to bring about its destruction in whole or in part: Israeli forces devastated Gaza’s infrastructure, knocking out

Gaza's only power plant, and destroying homes, schools, buildings, mosques and hospitals.  
Crimes against humanity

(A) The commission of murder as part of a widespread or systematic attack against any civilian population: Israeli forces relentlessly [bombed](#) Gaza for one month, killing nearly [2,000 Palestinians](#), more than 80 percent of whom were civilians. Israeli forces intentionally destroyed Gaza's infrastructure, [knocking out](#) Gaza's only power plant, and [destroying](#) homes, schools, buildings, mosques and hospitals.

(B) Persecution against a group or collectivity based on its political, racial, national, ethnic or religious character, as part of a widespread or systematic attack against any civilian population: Israeli forces killed, wounded, summarily executed, and administratively detained Palestinians, Hamas forces and civilians alike. Israel forces intentionally destroyed the infrastructure of Gaza, populated by Palestinians. UN Secretary General Ban Ki-moon [said](#): "the massive death and destruction in Gaza have shocked and shamed the world." He added the repeated bombing of UN shelters facilities in Gaza was "outrageous, unacceptable and unjustifiable."

(C) The crime of apartheid (inhumane acts committed in the context of an institutional regime of systematic oppression and domination by one racial group over another racial group, with the intent to maintain that regime): Ali Hayek, head of Gaza's federation of industries representing 3,900 businesses that employ 35,000 people, [said](#): "After 30 days of war, the economic situation has become, like, dead. It seems the occupation intentionally destroyed these vital factories that constitute the backbone of the society." Israel maintains an illegal barrier wall that encroaches on Palestinian territory and builds illegal Jewish settlements on Palestinian lands. Israel keeps Gazans caged in what many call "the world's largest open air prison." Israel controls all ingress and egress to Gaza, limits Gazans' access to medicine, subjects Palestinians to arbitrary arrest, expropriates their property, maintains separate areas and roads, segregated housing, different legal and educational systems for Palestinians and Jews and prevents mixed marriages. Only Jews, not Palestinians, have the right to return to Israel-Palestine.

### Collective punishment

Although the Rome Statute does not include the crime of collective punishment, it is considered a grave breach of the [Fourth Geneva Convention](#), which constitutes a war crime. Collective punishment means punishing a civilian for an offense he or she has not personally committed; it forbids reprisals against civilians and their property (civilian objects).

Ostensibly to rout out Hamas fighters, Israel has [wreaked](#) unprecedented devastation on the people of Gaza, killing nearly 2,000 people (more than 80 percent of them civilians) and destroying much of the infrastructure of Gaza. This constitutes collective punishment.

On August 5, 2014, veteran Israeli military advisor Giora Eiland advocated collective punishment of Gaza's civilian population, [saying](#): "In order to guarantee our interests versus the other side's demands, we must avoid the artificial, wrong and dangerous distinction between the Hamas people, who are 'the bad guys,' and Gaza's residents, which are allegedly 'the good guys.'" That is precisely the strategy Israel has employed during Operation Protective Edge.

Israel's occupation of Palestinian lands also constitutes collective punishment. Israel

maintains effective control over Gaza's land, airspace, seaport, electricity, water, telecommunications and population registry. Israel deprives Gazans of food, medicine, fuel and basic services.

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