

The Gaza Genocide

Social Change

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journals.sagepub.com/home/sch**Kalpana Kannabiran**¹ 

Abstract

On 16 September 2025, the Independent International Commission of Inquiry on the occupied Palestinian territory, including East Jerusalem, and Israel, which was established on 27 May 2021 by the Human Rights Council, published its report detailing the ‘conduct of the Israeli security forces in Gaza. This commentary presents a summary of the report of the Independent Commission on Gaza with a view to sustaining a public discussion on the crime of genocide, on state accountability under international law and on the suffering and profound wrongs committed against the people of Gaza—the massacre of children epitomising the inhumanity of the parties standing with Israel—complicit either actively or through their silence and refusal to name the wrong. It is hoped that a discussion of this report will be part of the cascading international resistance against the indefensible actions of the state of Israel and its allies.

Keywords

Genocide Convention, genocide, Gaza, Palestine

On 16 September 2025, the Independent International Commission of Inquiry on the occupied Palestinian territory, including East Jerusalem, and Israel (Independent Commission, 2025), which was established on 27 May 2021 by the United Nations Human Rights Council, published its report detailing the ‘conduct of the Israeli security forces in Gaza’. The temporal scope of this report is limited to the period between 7 October 2023 and 31 July 2025, and its geographical scope is limited to the Gaza Strip. The Independent Commission report focuses on the responsibility of the state of Israel and other third-party states under the Genocide Convention and does not extend its investigations to examine individual criminal responsibility under the Rome Statute of the International Criminal Court for the commission of crimes against humanity (para 6).

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In its previous reports to the Human Rights Council and the General Assembly covering the period since October 2023 in the Gaza Strip, the commission found that:

the Israeli security forces have committed crimes against humanity and war crimes in Gaza, including extermination, torture, rape, sexual violence and other inhumane acts, inhuman treatment, forcible transfer, persecution based on gender and starvation as a method of warfare... [and] that the Israeli authorities have (i) destroyed in part the reproductive capacity of the Palestinians in Gaza as a group, including by imposing measures intended to prevent births; and (ii) deliberately inflicted conditions of life calculated to bring about the physical destruction of Palestinians as a group, both of which are underlying acts of genocide in the Rome Statute and the Convention on the Prevention and Punishment of the Crime of Genocide ('Genocide Convention')... the commission now addresses the issue of genocide.

(paras 3–4)

The purpose of this recently released report was to investigate whether these acts of the Israeli security forces are sufficient to establish the finding of *actus reus* and *mens rea* of genocide, and if they do, to articulate the legal consequences of the commission of these acts for the state of Israel and other states under the Genocide Convention. Without foreclosing the future possibility of examining events affecting Palestinians in other geographical areas, including East Jerusalem, and also the future possibility of examining the violations committed on 7–8 October 2023 by Hamas against Israelis, in Southern Israel, this report focuses on Israeli state action in Gaza in the two years since October 2023 in response to the attack on Southern Israel.

This commentary presents a summary of the report of the Independent Commission on Gaza with a view to sustaining a public discussion on the crime of genocide, on state accountability under international law and on the suffering and profound wrongs committed against the people of Gaza—the massacre of children epitomising the inhumanity of the parties standing with Israel—complicit either actively or through their silence and refusal to name the wrong.¹ The acronym coined by doctors in the early stages of the genocidal violence in the Gaza Strip—'WCNSF', meaning 'wounded child, no surviving family'²—is testimony to the inestimable harms perpetrated in Gaza. This ruling, we must remember, comes after the proceedings of the International Court of Justice in the matter of the *Republic of South Africa v. State of Israel* (2024), which the International Commission refers to³; and the International Criminal Court decision of November 2024 issuing arrest warrants against senior Israeli officials and a Hamas official (Prime Minister Benjamin Netanyahu and former Defense Minister Yoav Gallant of Israel, as well as Mohammed Diab Ibrahim al-Masri, Commander-in-Chief of Hamas' military wing, the Qassam Brigades).⁴

It is hoped that a discussion of this report will be part of the cascading international resistance against the indefensible actions of the state of Israel and its allies on Palestinian civilians and on Gaza, totally disproportionate to the condemnable attack by Hamas and will contribute to the recognition of the profound wrongs committed by Israel against Palestinians, and deafening silence on the genocidal crimes of continuing mass murder, maiming, destruction and annihilation carried out with intent and purpose that they have borne witness to in real time.

Jus Cogens of International Law

The prohibition of genocide is a peremptory norm (*jus cogens*) under international law, which places an obligation on states to prevent and punish genocide wherever it might occur, the obligation coming into play the instant a state learns of the possibility of the commission of genocide—in other words, the clear and present danger/the risk of the occurrence of a genocide places the duty to prevent it on states. Genocide under the Genocide Convention and the Rome Statute covers acts to destroy a group ‘defined by ethnicity, race, nationality or religion’—and the International Court of Justice (ICJ) in *South Africa v. Israel* (2024), recognised Palestinian people as such a group (para 13):

[t]he Palestinians appear to constitute a distinct ‘national, ethnical, racial or religious group’, and hence a protected group within the meaning of article II of the Genocide Convention.... Palestinians in the Gaza Strip [comprising two million people] form a substantial part of the protected group.

(cited in para 157)

The Independent Commission proceeds on the basis of this observation of the ICJ.

Of the five categories of underlying acts that constitute the crime of genocide: (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) imposing measures intended to prevent births within the group; and (e) forcibly transferring children of the group to another group—the International Commission recorded its findings on four, (a) to (d). It did not find evidence on the fifth category, that is, the forcible transfer of children.

Acts of Genocide

The report of the Independent Commission proceeded to examine the underlying acts under the four categories for which it had evidence.

Killing Members of a Group

This requires that the act of killing or causing death (*actus reus*) must be pursuant to the intention to cause such death (*mens rea*): ‘it must be established that the perpetrator intends to kill—or cause the death of—the victim or to cause such serious injury that one would reasonably have known to result in death’ (para 19). The 21 months from 7 October 2023 to 31 July 2025 saw 60,199 Palestinians killed (18,430 of those killed were children and 9,735 were women); there was a steep decline in life expectancy in Gaza in the first 12 months of the war from 75.5 years for the year before October 2023 first to 40.5 years during the first 12 months of the war, and subsequently to 34.9 years—a dramatic decline in life expectancy levels by almost half. These figures do not account for foreshortening of life due to inadequate medical support, healthcare, and nutrition (para 20). The targeting

of women and children—46 per cent of those killed in the first year, and 60 per cent of those killed since the resumption of military strikes in March 2025—is a particular point of concern. Also, the fact that by Israel’s own admission, 8,900 Hamas and Islamic Jihad militants had been killed in this period, which put civilian deaths in Gaza at 83 per cent (para 21). Entire city blocks, residential neighbourhoods and apartment blocks were flattened by heavy unguided munitions and continuous heavy bombardment, and hospitals attacked, with the intent of causing maximum deaths and damage. In the words of a military expert, ‘Israel is dropping in less than a week what the United States was dropping in Afghanistan in a year, in a much smaller, much more densely populated area’. Neonatal and intrapartum deaths as well as ‘indirect victims of war’—pregnant women who died due to unavailability of medicines and treatments were recorded (para 25) as also the mass killings of health and humanitarian workers (para 35).

The conclusions of the Independent Commission on this point were unequivocal: ‘(i) the Israeli security forces had intentionally killed Palestinian civilians in Gaza by using wide-impact munitions that caused high numbers of deaths and (b) the actions were conducted with the knowledge that they would cause the deaths of Palestinian civilians’ (para 45, emphasis added). It concluded ‘that the *actus reus* and *mens rea* of “killing members of the group” under article II(a) of the Genocide Convention are established’.

Causing Serious Harm to Members of the Group

The underlying acts under this category cover acts of physical and mental harm that fall short of murder—an act that ‘seriously damages health, disfigures or causes serious injury to the external or internal organs or senses’ (para 52). Torture, degrading/inhuman treatment, rape, sexual assault, and sexual violence—of men and women in detention facilities (paras 65–71), forced displacement, impairment of mental faculties through any of these acts or other acts of inducing fear, intimidation, and threat of the destruction of the group—would be covered by this category. The detention and custodial torture of children has left them with ‘serious physical injury, extreme psychological distress and trauma’ (para 64).

The health ministry in Gaza reported ‘4,500 amputation cases by the end of 2024, as a result of the continuous Israeli airstrikes and ground attacks on Gaza’ since October 2023, of whom an estimated 800 were children, and 540 were women—making Gaza ‘home to the largest cohort of child amputees in modern history’ (para 53).

The destruction of reproductive materials and tissues—4,000 embryos and 1,000 sperm samples—coupled with the inestimable loss of life and decimation of entire extended families—caused a deep sense of reproductive loss and grief among people who were directly affected (para 57).

The severe bombardment has left Gaza in ruins with an estimated 50,773,494 tonnes of debris as of 1 December 2024, which would take 21 years to dispose of—the dust, smoke, ash, cement particles, and toxic remnants posing serious threats to survival for generations to come (para 54). The threat to human and non-human life in the region, not limited to Gaza, increases Israel’s criminal responsibility beyond serious harm to members of the targeted group.

The Independent Commission concluded that ‘Palestinians who were physically and mentally harmed by the Israeli security forces’ military operations will continue to suffer from long-term harm of such a serious nature that they will no longer be able to lead a normal and constructive life’ (para 74). It concluded that ‘the *actus reus* and *mens rea* of “causing serious bodily or mental harm to members of the group” under article II(b) of the Genocide Convention are established’ (para 82).

Physical Destruction of the Group as a Whole or in Part

The underlying acts in this category need not immediately result in the death of members of the group, but are aimed at the ultimate destruction of the group in whole or in part and

include rape and sexual violence, the deprivation of food and water, reduction or destruction of required medical services and shelter, lack of hygiene and sanitation, the systematic expulsion from and destruction of homes and withholding sufficient living accommodation. The time period of such deprivation must be of ‘sufficient length or scale’ to bring about the destruction of the group.

(para 84)

The ecocide that is part of the underlying acts of genocide is one that is critical—as also the realisation by all the states standing with Israel of the interdependence and mutual survival of life forms, the possibility of which is being annihilated by Israel as part of this genocide. The destruction of land is a key concern. The International Commission examined evidence of ‘widespread destruction of residential complexes, homes, and entire neighbourhoods in the Gaza Strip, including agricultural lands, public facilities, religious and cultural sites, schools, universities and hospitals’—with Israeli soldiers admitting to looting and destroying homes on social media (para 87).

The damage to agricultural lands across the entire Gaza Strip, particularly in north Gaza, poses a significant long-term threat to food production and the entire food supply chain. It has already disrupted the production of essential crops, caused farmers to lose their livelihood and accelerated the severe food crisis leading to famine. In addition, fishing has been greatly impacted with food production now impossible and many families have lost their livelihood as a result of the destruction of fishing boats and movement restrictions imposed by the Israeli security forces, preventing boats from leaving the Gaza shore.

(para 90)

The recovery of self-sufficiency in food production and agriculture in the Gaza Strip is a matter of concern—the enduring harms caused by this destruction cast a long shadow on the possibility that the land has been rendered unfit for cultivation or the flourishing of biodiversity for generations to come. Starvation has been used by Israel as a weapon of war in Gaza—with children being the major victims of starvation deaths (para 132). The destruction of public infrastructure—water, sewage, and electricity—has particularly affected healthcare facilities and hospitals leading directly to increased risk of mortality within these facilities for

healthcare seekers and those in need of critical care. The obstruction of humanitarian aid and the murder of aid workers exacerbated the crisis in the Gaza Strip.

The systematic destruction of educational facilities has resulted in the denial of access to education and a functional school system for over 658,000 children of school-going age (para 91). The International Commission noted that the loss of educational facilities has meant that Palestinians have lost their source of stability, hope, and possibility of a future and ‘that such conduct may be relevant for the assessment of *dolus specialis* of genocide’ (para 146), that is, the special intent to cause a particular kind of harm. It concluded that ‘the *actus reus* and *mens rea* of “deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part” under article II(c) of the Genocide Convention are established’ (para 147).

Preventing Births Within a Group

The *actus reus* of the underlying acts under this category ‘need not be physical, but may also be psychological or social, for example, when members of a group can be led, through threats or trauma or law, to be unable to conceive or to decide not to procreate’ (para 148); the *mens rea* requires that it be established that ‘the measure was intended to deprive the victim of the ability and the opportunity to conceive and to give birth’ (para 149). The attacks on maternity wards of hospitals and the destruction of the largest fertility clinic in Gaza provided evidence of this, leading the International Commission to conclude that the *actus reus* and *mens rea* of ‘imposing measures intended to prevent births within the group under article II(c) of the Genocide Convention are established’ (para 155).

Direct and Public Incitement to Genocidal Crimes

The Independent Commission found evidence of direct and public incitement to genocidal acts, Israel’s political leadership by name and acts of violence on the ground by security forces presumably pursuant to this incitement—a conclusion that is justified by the fact that there was ‘no evidence that Israel has conducted any genuine investigations or prosecutions or trials relating to these crimes’ (para 237). The Commission concluded that ‘Israel is responsible under article III(c) of the Genocide Convention for the direct and public incitement by its officials to commit genocide against Palestinians in Gaza as a group’ (para 244).

Third States

Casting an obligation on all states that are signatories to the Genocide Convention, the Independent Commission reiterated that

States are obliged to (i) ensure that Israel implements all orders for provisional measures issued by the International Court of Justice; (ii) cooperate to bring to an end

all Israeli actions in Gaza that amount to a violation of the Genocide Convention; (iii) take steps to ensure the prevention of conduct that may amount to an act of genocide under the Genocide Convention, including the transfer of weapons that are used or likely to be used by Israel to commit genocidal acts; (iv) not recognise as lawful the military operations in Gaza that led to the violations of peremptory norms (*jus cogens*), including genocide; and (v) conduct investigations and take steps to ensure the punishment of violations of peremptory norms.

(para 250)

Concluding Remarks: A Crime That Must Be Named

It is outside the scope of the present commentary to engage in a detailed and nuanced discussion of a host of scholars and jurists who have written on the subject of mass killing, mass civilian deaths, and the epistemic limitations of juridical delineation of ‘genocide’ in its figurations in various spatiotemporal locations in the eight decadal life of the Genocide Convention (see especially Moses, 2021). It is, however, necessary to recall the founding concerns around the United Nations Convention on the Prevention and Punishment of the Crime of Genocide, 1948 (Benhabib, 2011), and to flag ‘genocide’ in its current manifestation as a way of forcing accountability on Israel—that is, the crimes of mass targeted intergenerational extermination/annihilation by the state of Israel in Gaza (which would also constitute democide, if Rummel’s (1994) theory is considered. Spatiocide (Hanafi, 2004), domicide (Rajagopal, 2024), and ecocide (Moribe et al., 2023) annihilate the land and all life forms in irreversible ways—making human survival in a land being relentlessly and remorselessly annihilated well-nigh impossible. Malešević and David (2025, p. 20) use the term ‘organized callousness’ to describe the combined apparatus of war and genocide at work in Gaza, fusing war and genocide in inseparable ways, making them ‘more detached, dehumanizing, dispassionate, and destructive’. Article 6 of the Genocide Convention is particularly important in terms of forcing accountability for genocidal crimes:

Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.⁵

Despite intent being the hardest to prove in a case of genocide (Al-Waheidi, 2025), prosecution, and punishment must be pursued, in what Israeli–American scholar of Genocide and Holocaust Studies Raz Segal called a ‘textbook case of genocide’ within a week of Israel’s lethal retaliatory attacks on Gaza: ‘The convention is *activated by the risk of genocide, not just its occurrence*. That’s the whole point of prevention. That’s the meaning of “Never Again”’ (Segal, 2023, emphasis added).

Finally, tragically ironic is the fact that the negation of human survival on annihilated land is not selective in the way that genocide is. The continuing assault on Gaza, while it is genocide, is not only genocide. We go back to the

need to think about this crime that must be named, of which ‘genocide’ is one part. Any idea of shared humanity is smashed to smithereens with the realisation that we are now witnessing a parcel of crime more aggravated, far worse, that inflicts unfathomable planetary wrongs than past acts of genocide did, even as we bear witness stripped of the power of speech.

Postscript

On 29 September 2025, US President Donald Trump announced a 20-point peace plan for Israel and Gaza in the White House, which, he said, had been agreed to by Israel and Hamas, and would bring ‘strong, durable, and everlasting peace’ to the region. The return of hostages by Hamas, ceasefire on the part of Israel and return of Palestinian prisoners, exchange of mortal remains of the dead by both sides, rehabilitation of infrastructure, distribution of humanitarian aid, redevelopment of Gaza, creation of a special economic zone with negotiated tariffs and access rates, and the establishment by the United States of ‘a dialogue between Israel and the Palestinians to agree on a political horizon for peaceful and prosperous co-existence’ were some points in the proposed plan.⁶

Whether Israel will comply with any peacemaking plan, and whether Palestinians can return to Gaza in the hope of peace in a fragile land, remain fraught questions. The genocide and destruction Israel has unleashed on Gaza, leaving it in ruins serves as a grim reminder of the dangers that the politics of annihilation and occupation pose to our collective futures.

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Notes

1. Unless otherwise stated, all references in this commentary are to the report of the International Commission dated 16 September 2025.
2. Application by South Africa, instituting proceedings against the state of Israel, 29th December 2023, para 47.
3. ICJ, *application of the convention on the prevention and punishment of the crime of genocide in the Gaza Strip (South Africa v. Israel)*, Request for the indication of provisional measures, order, 26 January 2024.

4. Palestine: ICC warrants revive hope for long-delayed justice, Human Rights Watch, 21 November 2024. <https://www.hrw.org/news/2024/11/21/palestine-icc-warrants-revive-hope-long-delayed-justice>
5. *Convention on the Prevention and Punishment of the Crime of Genocide. Adopted by the General Assembly of the United Nations on 9 December 1948.* <https://treaties.un.org/doc/publication/unts/volume%2078/volume-78-i-1021-english.pdf>. Accessed on 5 October 2025.
6. Trump's 20-point Gaza peace plan in full. <https://www.bbc.com/news/articles/c70155nked7o>.

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