

Palestine: Education Destroyed

التعليم
فوق
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education
above
all



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Executive Summary

The war on Gaza has led to an unprecedented loss of life and large-scale destruction of its infrastructure. The impact of the disproportionate attacks on Gaza and its civilian population will have significant consequences on all, most importantly on children. Since 7 October 2023, over 28,775 Palestinians have been killed, 68,552 injured, and more than 1.9 million people internally displaced, more than half of whom are children. There are more than two million people in need of urgent, life-saving humanitarian aid and care. The Secretary-General of the United Nations, Antonio Guterres, has described Gaza as [“a graveyard for children”](#) detailing the clear violations of International Humanitarian Law being committed. UNICEF has [described](#) Gaza as the most dangerous place in the world to be a child, stressing that this is a war on children.

Education Above All Foundation calls for an immediate cessation of hostilities between all parties involved in violence in the occupied Palestinian territories. Killing, abductions, the deliberate deprivation of food and medicine, bombing schools and hospitals all constitute grave violations against children and, if deliberate, constitute war crimes.

Education Above All Foundation is committed to protecting children in conflict affected areas and calls on the international community to comply with their obligations under international humanitarian law, international human rights law, and to the principles of the Charter of the United Nations, respectively, to do their utmost to ensure an immediate ceasefire. These steps are absolutely vital to have any realistic prospects of preventing an entire generation being deprived of their right to education, which will have detrimental and long-lasting consequences for the nation long after the conflict.



“During the 2008-9 war the Al Fakhura School in the Jabaliya refugee camp was attacked by the Israeli Armed Forces, killing a number of civilians sheltering. In response, the Al Fakhoora programme under the umbrella of the EAA Foundation was established to honour the victims. Al Fakhoora operates through a diverse set of initiatives ranging from rebuilding educational facilities, providing psychosocial support for children and youth, establishing vocational programmes for students with disabilities, and awarding higher education scholarships to marginalised youth, enabling them to pursue undergraduate studies and complete their higher education.

On 10th October 2023, EAA’s Al Fakhoora House in the Southern part of Al Rimal, Gaza, was destroyed in Israel’s ‘Operation Iron Swords’ bombing.

Situation Analysis

The situation in the occupied Palestinian territories is dire, especially since the escalation on the 7th of October 2023. While the war has focused largely on Gaza, the situation in the West Bank and East Jerusalem remains tense with recurrent and disproportionate violence and breaches of the obligations and laws of occupation.

As of 16 February 2024, the war has led to 28,775 fatalities and 68,552 people have been [injured](#). Of the number of fatalities to date, around 70% are women and [children](#). In Gaza, 85% of the population, 1.9 million people, have been internally displaced. There has been large scale destruction as a result of military operations with over 60% of Gaza's housing units reported as destroyed or damaged; 23 hospitals and 53 health centres have been destroyed to the extent that they are out of service. Other important infrastructure, such as schools, WASH facilities and mosques and churches have been rendered unusable due to the extent of damage or outright destruction further exacerbating the humanitarian situation.

On 21 October 2023, after two weeks of continuous bombing and a total blockade of essential supplies, the first trucks of humanitarian aid, excluding fuel, entered Gaza. While the aid provided life-saving assistance, the number of trucks allowed into the Gaza strip was grossly insufficient to cover the growing needs. The first fuel trucks were allowed into Gaza on 15 November, after experiencing a total electricity blackout since 11 October 2023. The Famine Review Committee (FRC), confirmed there is evidence to show that Gaza has passed the acute food insecurity Phase 5 (Catastrophic threshold), and warned that the risk of famine increases daily amid intense conflict and restricted humanitarian [access](#). As of 7 January 2024, it is estimated that 2.2 million people are at imminent risk of [famine](#). A temporary ceasefire came into effect on 24 November 2023 as both parties agreed to a prisoner exchange. The ceasefire lasted until 1 December 2023 at which time the war resumed.

Gaza continues to experience a communication blackout, making it extremely challenging to call or receive emergency services. Access to health services have been significantly impacted by the war. Intense fighting and bombardments have taken place around 3 out of 4 of the Northern hospitals, and the Nasser hospital in the [South](#). The remaining 12 hospitals in the South are only partially functional, which has life-threatening implications, with around 180 pregnant women expected to give birth each day who require urgent access to [obstetrics](#). On 31 December, only 8 out of 22 UNRWA health centres in the middle and Southern areas were [operational](#). There is a lack of fuel, health supplies and hygiene in hospitals and health centres leading to heightened risks for maternal and infant [morbidity](#). For women and girls, there is poor access to menstrual hygiene products and inadequate potable water putting them at risk of infection, and lactating women are also at risk since they require higher daily water and caloric [intake](#). This sporadic data does not

adequately describe the huge stress that the number of those wounded in the conflict puts on the healthcare system, in addition to the other causes and concerns mentioned.

The devastating impact on education in the country has been exacerbated by severe damage to infrastructure, including educational facilities that are now being used as shelters. The shelters are well beyond capacity, creating risks for the health and safety of IDPs. By the end of 2023, 1.9 million people, or nearly 85% of the total population of Gaza, were estimated to be internally displaced, including some who have been displaced multiple times. The UN Office for the Coordination of Humanitarian Affairs (OCHA-OPT) has [confirmed](#) that “Rafah governorate is now the main refuge for those displaced, with over one million people squeezed into an extremely overcrowded space, following the intensification of hostilities in Khan Younis and Deir al Balah and the Israeli military’s evacuation orders”.



Meanwhile, in the West Bank, extensive closures have been imposed around West Bank cities and are severely impacting access to essential services. Violence has increased in the region with hundreds of settler attacks against Palestinians and damage to Palestinian-owned properties in the [region](#). 2023 has been the deadliest year for Palestinians in the West Bank since [2005](#). Between 7 October and 30 December, 307 Palestinians, 79 of whom were children, have been killed in the West Bank according to [OCHA](#). As of 2 February 2024, Israeli forces have also injured 372 Palestinians in the area, including at least 94 children, primarily in the context of [search-and-arrest operations](#). At least 198 Palestinian households have been displaced by the violence in the region, meaning that 1,208 people, many from Bedouin communities, have been [displaced](#).

Access to healthcare services and humanitarian aid has become increasingly difficult in the West Bank as well. Israeli restrictions on movement greatly hinder ambulances and humanitarian relief from passing into and between areas of the West Bank. It is estimated that in Area C of the West Bank, more than 300,000 vulnerable Palestinians have no access to emergency and essential healthcare services. This particularly affects women from remote communities, who are at heightened risk of having to give birth at home or while trying to cross checkpoints, since mobile clinics have been [unable](#) to operate since 7 October.

Education Destroyed in the War on Gaza

The conflict in Gaza has had a devastating effect on the education of children and young people. Prior to the conflict there were 625,000 school-aged students in Gaza and, currently, none of them are attending [school](#). Higher education institutions have also been affected, with more than 88,000 students unable to continue their [studies](#). Additionally, face-to-face education is disrupted in all 34 higher education institutes in the West Bank, affecting 138,800 [students](#). With the continuous targeted bombing of educational facilities, it will take a very long time to return to a functioning education sector.

Facilities for education have been heavily bombarded at all levels, including schools, colleges, and universities. In mid-December 2023, the UN reported that 352 school buildings had been damaged, representing more than 70% of Gaza's education [infrastructure](#). This includes at least 29 UN Relief and Works Agency (UNRWA) [schools](#). 9 out of 11 higher education buildings in Gaza have been damaged, and 2 in the [West Bank](#). In addition, many school buildings are being used as shelters for IDPs, meaning that approximately 90% of school buildings are currently not available for [lessons](#). Additionally, many children have been internally displaced or have sought refuge with their families in other countries, making it impossible to access local educational institutions.

At least 200 teachers are reportedly killed, and more than 500 [injured](#), as well as 439 higher education staff [killed](#), risking the future of education in Gaza after the conflict. Even if a long-term ceasefire is agreed, normality will take a very long time to return to the education sector in Palestine due to a severe shortage of school buildings, classrooms and [staff](#).

Legal Background on the Occupied Palestinian Territories (oPt)

This briefing sets out a range of violations of the right to education by Israel, which is the [occupying power](#) in the Occupied Palestinian Territories ('oPt'). It is important to note that the present war is part of a systematic and recurring pattern of hostilities against civilians and their infrastructure in Gaza over the last decade. Crucially, the analysis of the right to education of Palestinians must be situated within the context of a longer history of occupation and grave violations of international law committed by the State of Israel that include large scale killing and maiming of innocent civilians, the total destruction of civilian infrastructure and violent displacement of 85% of the population. These grave violations of international law, which are now the subject of legal proceedings at the [International Criminal Court](#) and [International Court of Justice](#), make it impossible for Palestinians to enjoy their fundamental right to education.

Attacks on education have been defined as 'any threatened or actual use of force against

'Gaza is no ordinary State upon which other States may freely impose economic sanctions... It is an occupied territory in whose well-being all States have an interest and whose welfare all states are required to promote. According to the Advisory Opinion of the ICJ, all State parties to the GC IV [Fourth Geneva Convention] have the obligation "to ensure compliance by Israel with IHL"'

[UN Doc A/HRC/7/17, para 27]

students, teachers, academics, education support and transport staff (e.g., janitors, bus drivers), education officials, education buildings, resources, or facilities (including school buses)'. For that matter, attacks on education include the total disruption of education for 625,000 students, and the reported killings of 5,055 students and 246 teachers – as well as 836 teachers being injured, and 536 schools being partially damaged or destroyed. In addition, armed forces and non-state armed groups use schools and universities for military purposes, putting them at risk of attack and denying students access to education' (for definitions of 'attacks' see the [definitions](#) provided by the Global Coalition to Protect Education from Attack). However, in the context of the oPt, this definition may be too narrow to encapsulate the auxiliary encroachments of the right to education, including starvation, movement restrictions, blockade, siege, forced transfer and denial of essential life-saving equipment/facilities.

Noting the above, the laws applicable within the oPt have been enumerated in both the [Wall case](#) and the [report](#) by the United Nations Secretary General (UNSG). The Advisory Opinion issued by the ICJ clarified two points in relation to the applicable laws within the oPt. The first was that Israel is an Occupying Power under International Humanitarian Law (IHL) and, second, that the laws of IHL and International Human Rights Law (IHRL) apply concomitantly, even during hostilities.

What follows is an overview of the violations committed by the State of Israel in the context of its obligations as an Occupying Power, and violations of the norms of IHL, IHRL and customary international law, in respect of the right to education for Palestinians.

Laws of Occupation

As the Occupying Power in the oPt, Israel has several obligations to those under its authority according to Articles 42-56 of the Hague Regulations, as confirmed in the [Armed Activities \(Congo v Uganda\)](#) decision issued by the ICJ. According to Article 43 of the Hague Regulations, the Occupying Power ‘shall take all measures in its power to restore and ensure as far as possible public order and safety’. This is pertinent as the laws of occupation confer sovereignty over the occupied peoples, meaning that the occupation must have an end, to ultimately reconstitute the occupied peoples’ sovereignty back to them.ⁱ The violations by the Israeli government in this regard include the wholesale disregard of any constraints in its “forever occupation”,ⁱⁱ and led UN Experts and scholars to question the inherent nature and objectives of the occupation.

“The international community has identified three regimes as inimical to human rights – colonialism, apartheid, and foreign occupation. Israel is clearly in military occupation of the [oPt]. At the same time, elements of the occupation constitute forms of colonialism and of apartheid, which are contrary to international law. What are the legal consequences of a regime of prolonged occupation with features of colonialism and apartheid for the occupied people, the Occupying power and third States?”

[UN Doc. A/HRC/4/17]

The key articles of the Fourth Geneva Conventions (IV) related to the duties of the Occupying power are:

Article 49: Individual or mass forcible transfers as well as deportations of protected persons from occupied territory to the territory of the Occupying Power... are prohibited

Article 50: duty to facilitate the working of care and education institutions

Article 55: duty to ensure food and medical supplies to the population

Article 56: duty to ensure and maintain medical and hospital establishments and services

Article 59: duty to agree on relief schemes if the occupied territory is not well supplied

Article 60: duty to continue performing obligations even if third parties provide relief consignment

These articles together impart positive obligations on the Occupying Power to ensure the facilitation of education, regardless of the situation of hostilities. The ongoing onslaught on the people of Gaza has

resulted in the wholesale disruption of access to education, the destruction of educational facilities. The war on Gaza has had a significant spill over effect into the West Bank, where the rights of learners – overwhelmingly children – have also been severely impinged due to the deterioration of security, as a direct result of settler, military, and police violence.

The articles of the Geneva Convention detail essential provisions to ensure the health of the occupied peoples and, critically, their physical and mental health and wellbeing to ensure that they are able to fully enjoy their other rights. The Special Rapporteur on the situation of human rights in the oPt [confirmed](#) that poor access to healthcare and the systemic exposure to trauma leads to significant drop-out rates. This is further exacerbated due to the tightening of the already catastrophic siege imposed on the Gaza Strip. The Gaza Strip exemplifies a total reversion of the obligations of the Occupying Power by completely denying access to basic and fundamental nutrition, water, fuel and life-saving equipment. The compounded breaches by the continuous occupation result in, and account for grave breaches as detailed in Article 147 of the Fourth Geneva Convention.

[Article 49](#) of the Fourth Geneva Convention was adopted precisely to ‘prevent a practice... to colonise those territories’. However, this has been a continuous feature of the State of Israel’s practice, leading to ‘8,400 Jewish settlers in 1972 to



250,000 in 1992’ in the occupied Palestinian territory.ⁱⁱⁱ More recently, it has been [confirmed](#) that, ‘during the last 10 years, the settlement population in the occupied West Bank, including East Jerusalem, has grown from 520,000 in 2012 to just under 700,000’. This policy of increasing the number of settlements is also paired with a policy of displacing the indigenous Palestinian population through a policy of fear-mongering and hostile lawfare, creating an environment of fear for the Palestinian people through the establishment of several checkpoints in East Jerusalem and the West Bank, and increasingly violent settler-attacks. Whilst law is being applied – for instance the [Absentee Property Law \(1950\)](#), [Military Order 1797 \(2018\)](#) and the [Legal and Administrative Matters Law \(1970\)](#) – these laws are being selectively and disproportionately applied to Palestinians, although they are theoretically applicable to both Israeli and Palestinian civilians. The Special Rapporteur for the Occupied Palestinian Territory has [noted](#) that the largest number of homes demolished was in 2022. Since 2016, the Special Rapporteur on the Situation of Human Rights in the oPt has noted that ‘the Israeli authorities demolished, confiscated or sealed 1,000 Palestinian owned structures

across the occupied West Bank including East Jerusalem’ – this also includes the demolition of 2 schools, one of which served 40 students. Since the Special Rapporteur’s report in October 2023, 58 schools serving around 6,500 students were at risk of impending demolition. Aside from constituting flagrant violations of IHL, this [evidences](#) the impunity the Israeli State has enjoyed, but also the total desire to [colonise](#) Palestine and to erase the Palestinian population (A/HRC/44/60 and A/76/94).

International Humanitarian Law

The key [finding](#) by the UN fact finding mission is that due to the status Israel possesses in relation to the Gaza Strip, and its ‘former administrative and regulatory powers, it has intimate knowledge on both the civilian registry and civilian infrastructure’ that is deep enough to contend that the unfolding devastation is deliberate. This violates a core tenet of the laws of war (IHL) including, importantly, the principle of distinction.

‘Israeli land and planning policies and measures, demolitions, forced evictions and systems of increasingly severe settler violence, both individually and cumulatively create a context whereby Palestinians are often left with no choice but to leave their place of residence.’

[UN Doc. A/HRC/52/76, para 49]

The principal sources of IHL include Additional Protocol I to the Geneva Conventions, which covers the protection of individuals and victims in conflict. Of particular relevance are Articles 51 and 52 on the protections of civilians and civilian infrastructure and objects which, in turn, provide protection for students, education personnel, schools, universities and technical, vocational and educational centres. There are also specific provisions that provide for extensive safeguards for children in conflict contained in Article 50 of the Fourth Geneva Convention and Article 77 of the Additional Protocol I.

Some of the violations of the norms of IHL by Israel include:

Article 18 GC IV: guaranteeing the non-derogable protection of hospitals from attack and that they be respected by *all* parties to the conflict.

Article 23 GC IV: To allow free passage of humanitarian medical supplies, as well as consignments of essential foodstuffs and clothing for children, pregnant women, and mothers at the earliest opportunity.

Article 70 of Additional Protocol I: To allow the passage of articles that are essential for the civilian population at the earliest opportunity.

The aforementioned fact-finding mission also identified the past military directives and objectives of Israel, most troubling of which is the ‘*Dahiya*’ doctrine, ‘which required widespread destruction as a means of deterrence’. The indiscriminate and disproportionate level of violence is not unique to the 2009 war; it has been a consistent [theme](#) in all aggressions and hostilities by the State of Israel. South Africa, too, has noted within their [submission](#) for provisional measures for the punishment and prevention of the crime of genocide, Israeli forces’ use of “dumb” bombs to ensure maximum damage in ‘one of the most densely populated areas in the world’ (p. 9).



The wholesale denial of electricity, food and water into Gaza has led many to question the objectives of the ongoing siege, as noted by [human rights organisations](#) and [UN officials](#) and [experts](#) who have posited that the measures have had such a deleterious effect

on the health of Palestinian civilians that the motives of the Israeli government may be to [collectively punish](#) the civilian population – which is in contravention of Article 33 of the Fourth Geneva Convention and Article 75 of the Additional Protocol I – constituting a grave breach of IHL according to Article 147 of the Fourth Geneva Convention.

Referring to collective punishment, UN experts have stated that Israel is ‘[weaponising food](#)’, thereby inflicting significant harm on a civilian population, actions that constitute a grave breach of the Fourth Geneva Convention (Article 147). In Gaza, spread of [communicable diseases](#) due to [poor sanitation](#) and [famine](#) have greatly increased as a result of the total embargo imposed by the Israeli government. These are serious war crimes and crimes against humanity that have raised the alarm over the [intent to commit genocide](#) by Israel and, at the very least, its [failure to prevent](#) genocide; this issue shall be enumerated further, below.

‘Collective punishment is an inflamed scar that runs across the entire 53-year-old occupation. In this time, two million Palestinians in Gaza have endured a comprehensive air, sea, and land blockade since 2007.’

[UN Doc. A/HRC/44/60, para 24]

International Human Rights Law

The relevant human rights treaties in this context include the following:

International Convention on the Elimination of all forms of Discrimination (CERD)

International Covenant on Civil and Political Rights (ICCPR)

International Covenant on Economic, Social and Cultural Rights (ICESCR)

Convention on the Rights of the Child (CRC)

Convention on the Elimination of Discrimination Against Women (CEDAW)

Convention on the Rights of Persons with Disabilities (CRPD)

To be absolutely clear, obligations of IHRL do not cease during the course of hostilities and therefore the occupying power is under obligation to guarantee the essential safeguards for decent and adequate living for the Palestinian peoples, at all times. There is a plausible argument that this has not been the case, since the people of Gaza have endured a [decades-long siege](#) that deemed Gaza to be “[uninhabitable](#)”, long before the escalation of violence since 7th October 2023.

Right to Education

The right to education is explicitly provided for in Article 13 of the ICESCR, Article 28 of the CRC, Article 10 of the CEDAW and Article 24 of the CRPD. As well as focusing specifically on the right to education, there are essential rights that must be upheld in to ensure the continuation of education. These cover instances where learners and education personnel are unable to attend or continue the functioning of quality learning, due to a tortuous policy of [starvation](#), denial of [adequate water](#) and exposure to [debilitating trauma](#), among other obstacles that are within the control of the occupying power.

In an effort to recount the numerous violations of the right to education faced by Palestinians, this paper will identify direct violations of the right and tertiary violations that prevent the Palestinian population from enjoying that right. [General Comment No. 13](#) by the Committee on Economic, Social and Cultural Rights, delineates the 4 A’s framework, the most important of which for the purposes of this paper is “*Accessibility*” – which follows the principles enshrined under the UNESCO Convention Against Discrimination in Education, and Article 5 of the CERD. Accessibility guarantees the principle of non-discrimination and encapsulates both physical and economic accessibility.

A study commissioned by the [Government of South Africa in 2009](#) in order to respond to the question posed by then Special Rapporteur on apartheid in the oPt, Prof. John Dugard, found that although there were no

direct practices that constitute discriminatory measures with regards to education (Chapter 7 of the study), the overall practices of the Israeli government severely hindered the right of education for Palestinians. This has been subsequently affirmed in several reports and studies, including the recent report by the Special Rapporteur on the oPt.

‘Checkpoints and intimidating soldiers and settlers affect 80% of students. Since 2012, over 300 children and teachers have faced arrest and detention while in or going to school. Another 481 had their school equipment confiscated at checkpoints. Amidst these adversities school drop-out rates have risen to 32% among secondary schoolchildren in the West Bank... Children with disabilities have disproportionately low school enrolment (51% in the West Bank and 43% in the Gaza Strip)’

[UN Doc. A/78/545, paras 74-77]

Right to Life

Article 6(1) of the ICCPR establishes protection from the arbitrary deprivation of life, for which there is no derogation even during times of emergency and conflict. The level and scale of violence perpetrated against the civilian population in Gaza for the duration of the war is far greater than any conflict in the past 10 [years](#). This is particularly troubling, as the high number of casualties and destruction of civilian infrastructure is paired with explicit statements by Israeli military and political leaders of their desire to destroy Palestinians as a group. The scale of gross violation of the ICCPR has now raised the possibility that Israeli actions may amount to the crime of [genocide](#) and [incitement to genocide](#).

The severe restrictions on movement and the punitive home demolitions that have been found to constitute an [act of torture](#), compounded with the threat of safety due to violent settler attacks and nightly raids by security forces result in an unstable environment which is far more injurious to children. These violations pose a threat to the enjoyment of life, freedom from cruel and inhuman treatment and the right to education. These actions are being inflicted on a population that is still recovering from past traumas of war (see [submission](#) by South Africa, p. 16). This goes against the very spirit of the human rights-based regime and the principal aims of both the Declaration on the Rights of the Child and the CRC which are to protect children from the scourges of war, Article 29 of which safeguards the right to the development of the child – with the right to education being [central](#) for the development of the child.

Self Determination

In order to truly guarantee and safeguard the right to education, the root cause^{iv} of violence must be addressed, namely the violent occupation resulting in the wholesale subjugation of the Right to Self Determination of the Palestinian people – as enshrined in the UN Charter and in common Article 1 of the ICCPR and ICESCR and [UNGA Res 1514 \(XV\)](#). As outlined earlier, the laws of occupation do not dispossess the occupied peoples of the right to self-determination, nor do they provide legal justification for the right of conquest or displacement. Palestinian peoples continue to possess the right to self-governance that is being wholly denied, due to a settler-colonial desire to forcibly displace the indigenous Palestinian population.

‘Does IHL inhibit or enable a transformative occupation that is indistinguishable from colonial rule... A historical analysis of the recurring arguments used in the international system reveals that the Israeli arguments are not novel; security and self-defence imperatives have authorized Western conquest and occupation for half a millennium. Little prevents an occupation from becoming a transformative colonial annexation, because IHL—as opposed to nonbinding UN General Assembly resolutions about self-determination— places strict limits on the ability of indigenous peoples to assert their national liberation, while its provisions inhibit occupiers from transforming the land and its demography far less than commonly supposed.’

[Moses A, “Empire, Resistance, and Security: International Law and The Transformative Occupation of Palestine” (2017) 8 *Humanity: An International Journal of Human Rights, Humanitarianism, and Development*, p. 381-2]

‘Lynk [former Special Rapporteur on the situation of human rights in the Palestinian territories] argued that it is no longer sufficient to highlight the Israeli occupations illegality as a flagrant and long-standing violation of IHL. This is because “illegality” does not capture the “transformative” nature of “Israel’s settler colonial project” and the fact that this “acquisitive” occupation “has become indistinguishable from annexation”’

[Sultany N, ‘The Question of Palestine as a Litmus Test: On Human Rights and Root Causes’ (2022) 23 *The Palestine Yearbook of International Law Online* 1, p. 6]

To tackle the root cause of the conflict and build sustainable peace, it is crucial to understand and address the longer history and the decades' long brutal occupation of Palestine by the State of Israel. There is a systematic and deliberate policy of violent forced displacement, ethnic cleansing and occupation that has been implemented through the Balfour Declaration in 1917 (affirming the Political Rights of Jews, but not of Arabs), the Drobles Plan (1978)^v (to increase migration of Jewish people to the oPt) and, more recently, statements in the Knesset and by the Israeli Prime Minister of the [rejection of a Palestinian State](#), to [re-build settlements](#) and to create an [expanded buffer zone](#). With the top priority currently being the need for an immediate ceasefire to guarantee safe and unimpeded access for urgent humanitarian needs, this longer pattern of deliberate violent ethnic cleansing, followed by occupation and unlawful territorial expansion are growing concerns about the longer term future for Gaza and what might happen the day after the war ends. In short, whilst the end to the war in Gaza is essential it is also critical that there is a longer-term accountability and a just solution that safeguards the fundamental right of self-determination of Palestinian peoples from which all other rights can derive.



It is for the reasons stated above that EAA stresses that the root cause must be addressed, in order to guarantee the right of Palestinians to self-rule and freedom from occupation. The historic and ongoing dispossession and alienation of Palestinian identity results in what Francesca Albanese refers to as being “unchilded from birth”. Similarly, it must be stressed that accountability must be sought to formally address the war crimes of annexation and population transfer within the oPt, and the withdrawal of all settlements, in particular the Wall and all partitions that render Palestinians incapable of enjoying all their essential human rights.

Genocide and the International Court of Justice

At the time of writing, the International Court of Justice is currently seized of two matters directly involving Palestine. The first is the request for an advisory opinion on the [‘Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem’](#), for which submissions and hearings are ongoing currently, which decision will tentatively be issued around June 2024. The second is the Republic of South Africa’s [‘Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip \(South Africa v. Israel\)’](#). The current war on Gaza has led many to determine that the indiscriminate attacks on Gaza to constitute Genocide. This has been a view

that has been expressed by both [legal scholars](#) and [UN experts](#), and the threat has become so imminent that the Republic of South Africa has requested the indication of [provisional measures to](#) “protect against further, severe and irreparable harm to the rights of the Palestinian people under the Genocide Convention” and “to ensure Israel’s compliance with its obligations under the Genocide Convention not to engage in genocide, and to prevent and to punish genocide”.

This request for provisional measures was sought in the form of an injunction against the State of Israel to halt its military campaign on grounds that it could potentially result in irreparable harm to Palestinians as a recognized national group. This request was made within the context of the comprehensive application to the ICJ to rule on whether Israel has committed the crime of genocide, whose merits will be adjudicated at a later date. The Court’s decision on the request for provisional measures is legally binding; however, as there is no direct power of enforcement, such decisions often have little effect on the alleged perpetrators in practice. Notwithstanding the lack of enforcement power, the decision is critical as the highest judicial organ has outlined the international legal obligations that Israel must comply with, and also has sounded the alarm with regard to the risk of complicity, aiding and abetting in genocide – which is a duty that is compulsory, especially for states-parties to the Genocide Convention, and the international community in general, to comply with.

The Court’s decision on the request for provisional measures called on Israel to take all measures to adhere to Articles 2 and 3 of the Genocide Convention, to enable the provision of basic services and humanitarian assistance, to preserve and maintain evidence related to allegations against Articles 2 and 3 and to report back to the Court one month from the date of the verdict, which is to be shared with the Republic of South Africa for their review and comments.

Provisional measures as an immediate safeguard are direly needed in the wake of the almost total decimation of civilian areas in Gaza. The genocidal attacks on civilians and the measures imposed by Israel are pervasive throughout past aggressions, the siege on Gaza, widespread settler violence and severe restrictions on the daily lives of Palestinians. Independent non-governmental organisations, experts and scholars have articulated that the questions being considered by the ICJ must be determined within the broader [backdrop](#) of the occupation in order to fully and properly comprehend the genocidal acts committed.^{vi}

Education Above All echoes the consistent call by the [UNSG for an urgent and immediate ceasefire](#) in order to allow for essential humanitarian needs to be met and for guaranteeing the safe passage of civilians.

EAA supports the call for accountability in the oPt by the United Nations High Commissioner on Human Rights, on the applicability of the Articles on Internationally Wrongful Acts, and the binding obligations on all States to also ensure that any grave breaches of IHL are adjudicated both domestically, utilising the doctrine of universal jurisdiction, as well as internationally, through the International Criminal Court and the International Court of Justice.

EAA deems the following to be the immediate priorities and stands ready to support and facilitate the fulfilment of these priorities to prevent further loss of life and to prevent a generation losing out on their right to education:

- 1. Immediate cessation of hostilities throughout the occupied Palestinian territories.**
- 2. All armed actors to agree and commit to providing safe spaces for children to gather and learn without fear of being embroiled in conflict or becoming victims of the conflict.**
 - a. The first step for this should be a call and commitment to protect all schools and education facilities and to uphold the inviolability of schools and civilian institutions during armed conflicts, especially those housing and sheltering civilians.**
 - b. The second step will be to reopen schools that have been closed to allow a greater number of out of school children into schools, with a view to initially providing safe spaces, shelter, and psycho-social and trauma related support and therapy.**
- 3. The provision of funds and humanitarian aid on the ground to enable urgent medical assistance to prevent the spread of communicable diseases, illness, and malnutrition.**
- 4. Safe return of internally displaced persons and refugees to their homes and provision of safe shelters for those dispossessed and displaced in the short-term.**
- 5. Reopening of schools with effective support to ensure unimpeded quality learning.**
- 6. Accountability for grave violations committed against the Palestinian peoples, and for violations of international humanitarian law.**
- 7. An end to Israel's occupation of Palestine.**

End.

ⁱ Ben-Naftali O, Gross A and Michaeli K, 'Illegal Occupation: Framing the Occupied Palestinian Territory' (2005), 23 Berkeley Journal of International Law, 3

ⁱⁱ Lynk M, 'Settlements Are the Engine of Israel's "Forever Occupation" – and a War Crime' <http://dawnmena.org/settlements-are-the-engine-of-israels-forever-occupation-and-a-war-crime/> (last accessed, 20 Feb 2024)

ⁱⁱⁱ Inseis A, 'On the Fourth Geneva Convention and the Occupied Palestinian Territory' (2003), 44 Harvard International Law Journal

^{iv} Marks S, 'Human Rights and Root Causes' (2011), 74 The Modern Law Review, 57

^v Inseis A, 'On the Fourth Geneva Convention and the Occupied Palestinian Territory' (2003), 44 Harvard International Law Journal, 104

^{vi} Nijim M, 'Genocide in Palestine: Gaza as a case study' (2023), 27 The International Journal of Human Rights, 165

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