

# Forced Displacement and Transfer as an Act of Genocide in the Gaza Strip

BADIL Working Paper No.31

**Research Team:** Sophia Al-Issa, Layan Choufani

**Copy Editing:** Leila Berland

**Layout & Design:** Baker AL-mshaikh

**ISBN:** 978-9950-339-66-8

**Working Paper No. 31:**

## **Forced Displacement and Transfer as an Act of Genocide in the Gaza Strip**

May 2024



All Rights Reserved

© BADIL Resource Center for Palestinian Residency and Refugee Rights, 2024

### **Notations:**

Any quotation of up to 500 words may be used without permission provided that full attribution is given. Longer quotations, entire chapters, or sections of this study may not be reproduced or transmitted in any form or by any means; electronic, mechanical, photocopying, recording, or otherwise, or stored in any retrieval system of any nature, without the express written permission of BADIL Resource Center for Palestinian Residency and Refugee Rights.

BADIL Resource Center for Palestinian Residency and Refugee Rights

Karkafa St.

PO Box 728, Bethlehem, West Bank; Palestine

Tel.: +970-2-277-7086; Fax: +970-2-274-7346

Website: [www.badil.org](http://www.badil.org)

BADIL Resource Center for Palestinian Residency and Refugee Rights is an independent, non-profit human rights organization working to defend and promote the rights of Palestinian refugees and Internally Displaced Persons (IDPs). Our vision, mission, programs and relationships are defined by our Palestinian identity and the principles of international humanitarian and human rights law. We seek to advance the individual and collective rights of the Palestinian people on this basis.



ISBN 978-9950-339-66-8



9 789950 339668

# Table of Contents

1	Executive Summary
4	Introduction
6	1. The Legal Framework on Forced Displacement and Population Transfer under International Law
9	2. Jurisprudential Analysis: Forced Displacement under Article 2(c) of the Genocide Convention
9	2.1. The <i>Actus Reus</i> Element
11	2.2. The <i>Mens Rea</i> Element
13	3. Overview of the Situation in the Gaza Strip
16	4. Forced Transfer as a Component of the Genocide against Gaza under Article 2(c) of the Genocide Convention
16	4.1. Illegality of the Israeli "Evacuation Orders"
19	4.2. Establishing <i>Mens Rea</i> : The Route of Death and Direct Targeting of Displaced Persons
22	4.3. Establishing <i>Actus Reus</i> : Acts Accompanying the Mass Forcible Displacement in the Gaza Strip
22	4.3.1. <i>Act 1: The Denial of Adequate Shelter</i>
24	4.3.2. <i>Act 2: Infliction of Deadly Health Conditions</i>
27	4.3.3. <i>Act 3: Obstruction of Humanitarian Aid and Starvation</i>
32	4.3.4. <i>Act 4: Separation of Families</i>
33	4.3.5. <i>Act 5: Destruction of Homes</i>
34	4.4. Forced Displacement in Gaza: The Vulnerability of the Group, the Nature of Imposed Conditions and the Duration of Exposure
35	5. Conclusion



## Executive Summary

The Palestinian population in the Gaza Strip forms a very substantial and significant part of the Palestinian people, a distinct national, racial, and ethnic group protected by the Convention on the Prevention and Punishment of the Crime of Genocide (GC). This paper makes the case that Israel, through its actions and intent, is committing genocide against the Palestinian population in the Gaza Strip via its policy of forced displacement and population transfer and the subsequent conditions of life it brings about that ultimately seek the destruction of the group.

Section 1 explores the legal framework of forced displacement under international law, making the distinction between lawful evacuation and the crime of forced displacement. Per Article 49 of the Fourth Geneva Convention (GCIV), while evacuation is permitted for the security of civilians and for “imperative military reasons,” in armed conflicts, mass or individual forcible transfers, “regardless of their motives”, are prohibited under international humanitarian law (IHL). Forced population transfer has been subject to criminalization under the jurisprudence of the International Criminal Tribunal of Yugoslavia (ICTY), as well as the main instrument of international criminal law, the Rome Statute of the International Criminal Court (ICC). Under the Rome Statute, forced population transfer constitutes a grave violation, subject to prosecution as a war crime and/or crime against humanity. The Statute of the ICTY listed and reserved the right to prosecute individuals for the crime of forced population transfer under similar principles.

Section 2 comprehensively examines the jurisprudence of the ICTY and other relevant legal frameworks to evaluate the ways in which forced displacement and population transfer meet the parameters set forth in Article 2(c) of the GC. It scrutinizes forced displacement as a potential act of genocide by analyzing the ways in which it can satisfy the *actus reus* element, i.e. the acts constituting the crime, and the *mens rea* element, i.e. the intent, of genocide. It is found that, ultimately, in order to establish forced displacement and population transfer as an act of genocide under Article 2(c) of the GC, it is critical to demonstrate its role in bringing about the physical destruction of a group and the intent to do so. For the *actus reus* element, it is essential to consider the conditions accompanying the forced displacement and imposed on the displaced, such as a lack of life necessities. A fundamental aspect of Article 2(c) is that these conditions have to ultimately seek the eventual physical destruction of the group, or in other words, the slow death of the group. The decisive element that sets an act of genocide apart from other acts commonly attributed to forced displacement, namely dissolution and ethnic cleansing, is the presense of *dolus specialis* (special intent). Therefore, to establish *mens rea*, forced displacement must be proven to be carried out with the specific intent to physically destroy a group, beyond reasonable doubt.

Section 3 provides an overview of the situation in Gaza, emphasizing that the Palestinians Gaza have been at the sharpest edge of Israeli colonization and violence for decades, and it is this subjugation that highlights their particular vulnerability in the midst of this genocide. Over 81 percent of the population in Gaza are refugees, descending from Palestinians dispossessed and displaced during and after the Nakba of 1948, with the majority of the population having been internally displaced multiple times as a result of Israel’s consistent assaults on Gaza over the years. Furthermore, since 2007, Israel has imposed a brutal land, sea, and air blockade on the Gaza Strip, restricting the movement of people and goods in and out of the area. This has had a devastating impact on the lives and livelihoods of the Palestinian population in Gaza, who have faced severe shortages of basic necessities such as food, fuel, and medical supplies, to the point where, in 2018, the UN Special

Rapporteur for the Situation of Human Rights in the OPT warned that Gaza would be "unlivable" by 2020. These dire conditions place the Palestinian population in the Gaza Strip in a situation of significant vulnerability, which has been further exacerbated since 7 October 2023. As of 26 April 2024, approximately 1.7 million people out of Gaza's 2.3 million inhabitants have been internally displaced, representing 75 percent of the population.

On 13 October 2023, Israel issued an "evacuation order" to all of the Palestinians in the north of the Gaza Strip to move south within 24 hours. It claimed that the evacuation was ordered for the "safety" of those in the north, and that it will permit them to return home in a future announcement. Israel's order applied to the 1.1 million people residing in the north of Gaza, to the 23 hospitals operating there that were treating over 2,000 patients, and to international organizations, including the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). Section 4.1 of section 4 establishes that Israel's "evacuation orders" violate international law, highlighting that from the start, it was clear that they were not issued for the purpose of protecting the population in Gaza. Under Article 49 of the GCIV, it is the Occupying Power's duty to provide those evacuated with proper shelter and "satisfactory conditions of hygiene, health, safety, and nutrition," as well as to prevent the separation of family members. Israel's actions have not only transformed the entirety of the Gaza Strip into a combat zone, but have also deliberately targeted purported "safe zones" with airstrikes, while still directing Palestinians to these areas. IDPs in Gaza also face conditions of inadequate shelter, food, water, and health care. These conditions directly contravene Israel's responsibilities as an Occupying Power, to ensure the safety and needs of the population it ordered to "evacuate."

Section 4.2 delves into Israel's attacks on designated "safe routes," United Nations (UN) facilities, schools, hospitals, and "safe evacuation zones," examining how they contribute to establishing the *mens rea*, intent to physically destroy the group, behind Israel's imposition of conditions leading to "slow death" for Internally Displaced Persons (IDPs). The systematic and repetitive nature of the displacement underscores its severity, with a staggering 75 percent of the population displaced and 67 percent of Gaza's areas subjected to so-called evacuation orders by Israel. Israel's systematic strategy of attacking places known to harbor displaced individuals, as well as areas it specifically instructed them to evacuate to, constitutes a calculated form of physical destruction aimed at displaced Palestinians. Not only does Israel force individuals to abandon their homes (under the threat of bombardment) but it also launches deliberate assaults on the roads they use to flee and the very spaces where this vulnerable population seeks refuge. These attacks ultimately establish the *mens rea* element, proving that Israel is deliberately engaging in actions against IDPs that lead to their harm and physical destruction.

Section 4.3 establishes the *actus reus* of forced displacement within the framework of Article 2(c) of the GC by exploring the "conditions of life", designated as "acts", surrounding the forced displacement in Gaza, namely: (1) the denial of adequate shelter, (2) the infliction of deadly health conditions, (3) the obstruction of humanitarian aid and starvation, (4) the separation of families, and (5) the destruction of homes.

Mandating the "evacuation" of 1.1 million Palestinians from the north to the south of the Gaza Strip, towards locations lacking adequate shelter, food, water, and healthcare has created a catastrophic situation. Beyond that, Israel has attacked places where IDPs sought shelter and ordered the evacuation of previously designated "safe-zones", leading to multiple displacements for some and the separation of families. This situation not only falls short of ensuring the safety of the displaced individuals, but also deliberately inflicts deadly conditions on IDPs, in violation of Article 2(c) of the GC. Those displaced are currently facing starvation—and in the long-term, the loss of the ability to produce their basic needs due to the destruction of the agricultural system—alongside hazardous

health conditions produced from inadequate, overcrowded and/or informal shelters. Additionally, they are denied return to their homes, with many also having had their homes destroyed and left indefinitely homeless. IDPs are not dealing with homelessness, health hazards, and starvation individually; but are experiencing these challenges in tandem, compounded by their displacement. These factors, when taken in their totality, provide objective probability of long-term suffering, slow death and physical destruction.

These genocidal conditions have been imposed for over 7 months, however, even in the event of a ceasefire, IDPs are set to experience lack of shelter, food, and proper sanitation long-term. Israel's ongoing destruction of homes, infrastructure, and the healthcare system, along with its attacks on shelters and aid distribution convoys will have enduring consequences, contributing to the slow death of Palestinians in Gaza for years to come.

# Introduction

From the onset of Zionism, colonization was perceived as “the instrument of nation-building” for a pure Jewish state.<sup>1</sup> It is this pillar of domination and separate existence that, in a context where Palestinian land already has a Palestinian people, necessarily requires demographic engineering and, by virtue, racial elimination of the “other”. In the case of Palestine, this racial elimination primarily took the form of forcible transfer, a heinous crime under international law. To realize this, Zionism adopted a *terra nullius* discourse that attempts to erase the presence of the Palestinian people by employing policies and practices of forcible transfer, ethnic cleansing, and genocide—similar to other settler-colonial states.<sup>2</sup>

Forcible transfer, defined as a war crime by the Fourth Geneva Convention (GCIV), is one of the primary pillars of the Israeli regime, alongside colonization and apartheid. Israel’s existence as a colonial-apartheid regime necessitates the forcible transfer, destruction, and erasure of the Palestinian people followed by its replacement by the colonizer. The “force” element within Israel’s forcible transfer manifests in two forms: direct force and indirect force. Direct force refers to violent physical force, which Israel has been employing since the Nakba - relating to the mass displacement and dispossession of Palestinians between 1947 and 1949 due to colonization, ethnic cleansing, massacres, military operations, and genocidal and terrorist acts committed by Zionist militias and Israel. Indirect force refers to the creation of a coercive environment, also employed since the Nakba, through a web of laws, policies and practices, that deliberately cause life to be so unbearable that they force individuals or a group to leave.<sup>3</sup>

The use of forcible population transfer and forced displacement<sup>4</sup> as a vehicle of genocide has been explicitly apparent in the conduct and expressed intent of Israel in the Gaza Strip.<sup>5</sup> United Nations (UN) officials and international experts have issued warnings of impending genocide being carried out in the Gaza Strip since October 2023.<sup>6</sup> As expertly stated by representatives of South Africa’s legal team to the International Criminal Court (ICC), Ms. Adila Hassim and Mr. Tembeka Ngcukaitobi, “[g]enocides are never declared in advance. But this Court has the benefit of the past 13 weeks of evidence,”<sup>7</sup> and “evidence of genocidal

---

1 Fayez A. Sayegh, *Zionist Colonialism in Palestine* (Research Center - Palestinian Liberation Organization 1965), 2.

2 Haifa Rashed and Damien Short, ‘Genocide and settler colonialism: Can a Lemkin-inspired genocide perspective aid our understanding of the Palestinian situation?’ (2012) 16(8) *The International Journal of Human Rights* 1142-1169 <<https://rebrand.ly/3yf63tr>>. For more information, see BADIL, *Decolonization: The Case of Palestine - Introduction* (Working Paper No. 30, BADIL 2023) <<https://rebrand.ly/7uwakr4>>.

3 For more information on forced displacement, see BADIL’s forcible transfer series: BADIL, *Forced Population Transfer: The Case of Palestine – Introduction* (Working Paper No. 15, BADIL 2014) <[https://www.badil.org/cached\\_uploads/view/2021/04/19/wp15-introduction-1618823118.pdf](https://www.badil.org/cached_uploads/view/2021/04/19/wp15-introduction-1618823118.pdf)> and subsequent papers in the series.

4 While the term “forced displacement” is used widely, the term “population transfer” is coded and classified as an international crime in article 49 of Fourth Geneva Convention, the Rome Statute, and other international legal instruments. As such, the two terms will be used interchangeably throughout this paper.

5 For the purposes of this paper, the terms “the Gaza Strip” and “Gaza” will be used interchangeably.

6 OHCHR, ‘Gaza: UN experts decry bombing of hospitals and schools as crimes against humanity, call for prevention of genocide’ (OHCHR, 19 October 2023) <<https://www.ohchr.org/en/press-releases/2023/10/gaza-un-experts-decrybombing-hospitals-and-schools-crimes-against-humanity>>; OHCHR, ‘Gaza is ‘running out of time’ UN experts warn, demanding a ceasefire to prevent genocide’ (OHCHR, 2 November 2023) <<https://www.ohchr.org/en/press-releases/2023/11/gazarunning-out-time-un-experts-warn-demanding-ceasefire-prevent-genocide>>; OHCHR, ‘Gaza: UN experts call on international community to prevent genocide against the Palestinian people’ (OHCHR, 16 November 2023) <<https://www.ohchr.org/en/press-releases/2023/11/gaza-un-experts-call-international-community-prevent-genocide-against>>.

7 Ms. Adila Hassim in The International Court of Justice, ‘Public sitting held on Thursday 11 January 2024, at 10 a.m., at the Peace Palace, President Donoghue presiding, in the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (*South Africa v. Israel*)’ Verbatim Record CR 2024/1,30 <<https://www.icj-cij.org/sites/default/files/case-related/192/192-20240111-ora-01-00-bi.pdf>>.



intent [that] is not only chilling, [but] also overwhelming and incontrovertible.”<sup>8</sup> Indeed, from the very early hours of 7 October 2023, Israeli politicians, representatives, and military personnel alike, have made blatantly clear what their intention is: to eradicate the Palestinian population in the Gaza Strip. These statements are abundant and ever-increasing, and were made explicitly and confidently across all levels of leadership, from the Israeli Prime Minister, Benjamin Netanyahu, describing Israel’s genocidal assault as “a battle of civilization against barbarism”;<sup>9</sup> to various Ministers and Members of the Knesset (MK) proclaiming “[they] all have one common goal — erasing the Gaza Strip from the face of the earth”,<sup>10</sup> and that Israel fully intends to roll out “the Nakba of Gaza 2023”,<sup>11</sup> a Nakba that will “dwarf the Nakba of 1948.”<sup>12</sup>

The Palestinian population in Gaza forms a very substantial and significant part of the Palestinian people, a distinct national, racial, and ethnic group protected by the Convention on the Prevention and Punishment of the Crime of Genocide (GC). This paper makes the case that Israel, through its actions and intent, is committing genocide against the Palestinian population in the Gaza Strip via its policy of forced displacement and population transfer and the subsequent conditions of life it brings about that ultimately seek the destruction of the group.

The paper first establishes the general legal framework on forced displacement and transfer under international law. Then, it delves into the legal framework and international criminal law’s jurisprudence on forced displacement and population transfer as an act of genocide. By studying the *actus reus* (acts) and *mens rea* (intent) elements of genocide, the paper lays out the legal foundations and precedents around establishing this policy as an act of genocide under Article 2(c) of the Genocide Convention. The paper then provides an overview of the situation in the Gaza Strip, highlighting the already dire and vulnerable situation Palestinians have been exposed to prior to the genocide. Finally, the paper proves that Israel is utilizing forced displacement and population transfer as a component of genocide, demonstrating the illegality of Israeli evacuation orders, and establishing the *mens rea* element around the direct targeting of displaced Palestinians, as well as the *actus reus* element by analyzing the various acts accompanying the mass forced displacement of the Palestinians in Gaza. Finally, the paper underpins the severity of this genocidal act given the vulnerability of the group, the nature of the imposed conditions, and the duration of exposure. The information provided in this edition of the paper is as of late April 2024.

---

8 Mr. Tembeka Ngcukaitobi in *Ibid*, 42.

9 Israel Ministry of Foreign Affairs, ‘Christmas message from PM Netanyahu’ (*Israel Ministry of Foreign Affairs*, 24 December 2023) <<https://www.gov.il/en/departments/news/christmas-message-from-pm-netanyahu-24-dec-2023>>.

10 Post on X by Deputy Speaker of the Knesset and Member of the Foreign Affairs and Security Committee, Nissim Vaturi (X, 7 October 2023) <<https://twitter.com/nissimv/status/1710694866009596169>>.

11 Israeli Minister of Agriculture, Avi Dichter, <[https://www.youtube.com/watch?v=Uz2DOHU6drk&ab\\_channel=MiddleEastEye](https://www.youtube.com/watch?v=Uz2DOHU6drk&ab_channel=MiddleEastEye)>.

12 MK for the Likud party, Ariel Kallner, quoted in Middle East Monitor, ‘Israel MK calls for a second Nakba in Gaza’ (*Middle East Monitor*, 9 October 2023) <<https://www.middleeastmonitor.com/20231009-israel-mk-calls-for-a-second-nakba-in-gaza/>>.

# 1. The Legal Framework on Forced Displacement and Population Transfer under International Law

During armed conflicts, displacement of individuals or groups is a common occurrence, and while not always unlawful, it carries significant legal and humanitarian considerations. One of the most critical distinctions to be made is between evacuation – defined as the “necessary” relocation of individuals within or from a combat zone – and forcible transfer, which contravenes international humanitarian law (IHL).<sup>13</sup> In a situation of military occupation, Article 49 of the GCIV stipulates that while evacuation is permitted for the security of civilians and for “imperative military reasons”, mass or individual forcible transfers of the occupied population, “regardless of their motives”, are prohibited under IHL.<sup>14</sup> On this matter, the commentary of the International Committee of the Red Cross (ICRC) provides that “real necessity must exist; the measures taken must not be merely an arbitrary infliction or intended simply to serve in some way the interests of the Occupying Power.”<sup>15</sup> In cases of evacuation, Article 49 mandates that an Occupying Power must ensure the return of evacuated persons to their homes once hostilities cease, as well as provide those displaced with proper accommodation and ensure “satisfactory conditions of hygiene, health, safety, and nutrition,” while preventing the separation of family members.<sup>16</sup>

Per the jurisprudence of the International Criminal Tribunal of Yugoslavia (ICTY), specifically in the case of *Radovan Karadžić*, establishing crimes of deportation or forcible population transfer necessitates the use of force. While this force can be physical, e.g. by way of expulsion, it can also be carried out in the form of coercion, “such as that caused by fear of violence, duress, detention, psychological oppression, or abuse of power, or the act of taking advantage of a coercive environment.” Moreover, it clarified that the “forced” element of displacement is “determined by the absence of genuine choice by the victim.” Thus, such consent or request must be voluntary and stemming from their free will, and assessed circumstantially, even if individuals may agree to or request their displacement.<sup>17</sup> On the matter, the case of *Jovica Stanišić and Franko Simatović* provided that “[d]isplacement of persons carried out pursuant to an agreement among political or military leaders, or under the auspices of the ICRC or another neutral organization, does not necessarily make it voluntary.”<sup>18</sup>

It is important to note that, while forced transfer and deportation both fall under the umbrella of forced displacement, the two terms legally differ from one another. In the case of *Radovan Karadžić*, it was held that “for deportation, the displacement of persons must be across a *de jure* border between two states or, in certain circumstances, a *de facto* border,” while “for forcible transfer, the removal may take place within national boundaries.”<sup>19</sup> For the purpose of the paper, the legality of the latter, forcible transfer, will be the primary focus.

---

13 International Committee of the Red Cross (ICRC), ‘Evacuation’ (ICRC, 17 February 2017) <[https://casebook.icrc.org/a\\_to\\_z/glossary/evacuation](https://casebook.icrc.org/a_to_z/glossary/evacuation)>.

14 Geneva Convention Relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287 (Fourth Geneva Convention/GCIV), art 49 <[https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.33\\_GC-IV-EN.pdf](https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.33_GC-IV-EN.pdf)>.

15 ICRC, ‘Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949: Commentary of 1958’ <<https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-49/commentary/1958>>.

16 GCIV (n 14), art 49.

17 *Prosecutor v. Radovan Karadžić* (Judgment in Trial Chamber) ICTY-95-5/18-T (24 March 2016), para 489 <[https://www.icty.org/x/cases/karadzic/tjug/en/160324\\_judgement.pdf](https://www.icty.org/x/cases/karadzic/tjug/en/160324_judgement.pdf)>.

18 *Prosecutor v. Jovica Stanišić and Franko Simatović* (Judgment in Trial Chamber I) ICTY-03-69-T (30 May 2013), para 993 <<https://www.legal-tools.org/doc/066e67/pdf/>>.

19 *Karadžić* (Judgment in Trial Chamber) (n 17), para 488.

The Guiding Principles on Internal Displacement stipulate situations in which the internal displacement of individuals is forcible and therefore unlawful, based on principles of international law. The document defines internally displaced persons (IDPs) as “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border.”<sup>20</sup> Principle 6.2 of the Guiding Principles provides that displacement is prohibited when it is motivated by policies like: “apartheid, ethnic cleansing, or similar practices aimed at/or resulting in altering the ethnic, religious or racial composition of the affected population”; during armed conflict, except for the specific safety and military reasons mentioned previously; in large-scale development projects; during disasters, unless evacuation is necessary for safety; and when it is employed as a form of collective punishment.<sup>21</sup> Principle 7 states that, before requiring the displacement of individuals, the concerned party must consider all alternative options that may avoid the displacement, and that “[w]here no alternatives exist, all measures shall be taken to minimize displacement and its adverse effects.”<sup>22</sup>

Forced population transfer has been subject to criminalization under the jurisprudence of the ICTY, as well as the main instrument of international criminal law, the Rome Statute of the International Criminal Court (ICC). Under the Rome Statute, forced population transfer constitutes a grave violation, subject to prosecution as a war crime and/or crime against humanity. Article 7(e) of the Statute provides that the forcible transfer of a population constitutes a crime against humanity “when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.”<sup>23</sup> The Rome Statute lists as war crimes both grave breaches of the Geneva Convention, such as unlawful deportation and transfer, and other serious violations of international law, such as the transfer, directly or indirectly, of an occupied population.<sup>24</sup> The Statute of the ICTY listed and reserved the right to prosecute individuals for the crime of forced population transfer under similar principles. Article 2 of the Statute provided that the Tribunal has the authority to prosecute grave breaches of the Geneva Conventions, listing “unlawful deportation or transfer or unlawful confinement of a civilian” as one of the said breaches.<sup>25</sup>

Forced displacement and population transfer were pivotal aspects of numerous ICTY cases, leading to charges against many individuals. These crimes were also intricately linked with the overarching issue of genocide within the tribunal’s jurisdiction. One way in which the ICTY had criminalized forced displacement was as indicative of genocidal intent. Cases like *Karadzic*, for example, deemed that forced displacement played a significant role in inferring genocidal intent when considering societal factors and the circumstances surrounding the displacements. The Appeals Chamber of the case had found that the perpetrators’ acts of separating and executing of Bosnian Muslim men, coupled with the forcible transfer of women, children, and the elderly, established that there was a deliberate intention to physically destroy the group. To do so, the Court considered the Bosnian Muslim society's patriarchal

---

20 United Nations Commission on Human Rights, Guiding Principles on Internal Displacement (1998) E/CN.4/1998/53/Add.2 (GPID) , Introduction: para 2 <<https://t.ly/jvbqF>>

21 *ibid* Principle 6.2.

22 *ibid* Principle 7.

23 GCIV (n 14), art 7(e).

24 Rome Statute, art 8

25 UN Security Council (UNSC), Statute of the International Criminal Tribunal for the Former Yugoslavia (Adopted 25 May 1993, amended 7 July 2009), art 2 <[https://www.icty.org/x/file/Legal%20Library/Statute/statute\\_sept09\\_en.pdf](https://www.icty.org/x/file/Legal%20Library/Statute/statute_sept09_en.pdf)>.

nature and the consequences the killing of the men would have on procreation – in that the women would be “unable to remarry and, consequently, to have new children.”<sup>26</sup> The *Krstić* Appeals Chamber had found that the scale of the killing along with the perpetrator’s “awareness of the detrimental consequences it would have” was sufficient enough to find genocidal intent.<sup>27</sup> On this matter, the Trial Chamber had underscored the following:

“The Bosnian Serb forces had to be aware of the catastrophic impact that the disappearance of two or three generations of men would have on the survival of a traditionally patriarchal society, an impact the Chamber has previously described in detail. The Bosnian Serb forces knew, by the time they decided to kill all of the military aged men, that **the combination of those killings with the forcible transfer of the women, children and elderly would inevitably result in the physical disappearance of the Bosnian Muslim population at Srebrenica.**”<sup>28</sup>

Cases of genocide, and elements like forced displacement, are thus highly circumstantial in their assessment. Grappling with complex cases, international criminal tribunals, such as those in Bosnia, have continuously reassessed the evidentiary value of forced population transfer and its role in demonstrating genocidal intent. The importance of this circumstantiality is also true when considering forced displacement as an act of genocide.

Subsequent sections specifically examine how forced population transfer may serve as an act of genocide, drawing on precedents established by the ICTY and other relevant sources of jurisprudence.

---

26 *Prosecutor v. Karadžić* (Judgment in Appeals Chamber) ICTY-98-33-A (19 April 2004), para 28 <<https://www.icty.org/x/cases/krstic/acjug/en/krs-aj040419e.pdf>>.

27 *ibid* para 35.

28 *Prosecutor v. Karadžić* (Judgment in Trial Chamber) ICTY-98-33-T (2 August 2001), para 595 (emphasis added) <<https://www.icty.org/x/cases/krstic/tjug/en/krs-tj010802e.pdf>>.

## 2. Jurisprudential Analysis: Forced Displacement under Article 2(c) of the Genocide Convention

Article 2 of the GC provides:

“In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (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;
- (e) Forcibly transferring children of the group to another group.”<sup>29</sup>

In South Africa’s Application to the ICJ, invoking the GC against Israel, forced displacement is categorized as an act within the scope of Article 2(c). This section comprehensively examines the jurisprudence of the ICTY and other relevant legal frameworks to evaluate the ways in which forced displacement and population transfer meet the parameters set forth in Article 2(c) of the GC. It scrutinizes forced displacement as a potential act of genocide by analyzing the ways in which it can satisfy the *actus reus*, i.e. the acts constituting the crime, and the *mens rea*, i.e. the intent, of genocide.

### 2.1. The *Actus Reus* Element

As per Article 2 of the GC, the crime of genocide is primarily contingent on two elements: the destruction of a group and the intent to commit said destruction. Article 2(c), the focal point of this study, specifically stipulates that this destruction must be physical in nature. Numerous cases under the ICTY have determined that acts falling under Article 2(c) of the GC, i.e. Article 4(2)(c) of the ICTY Statute, are ones “that do not immediately kill the members of the group, but ultimately seek their physical destruction” or,<sup>30</sup> as the cases of *Radovan Karadžić*<sup>31</sup> and *Tolimir* provided, ones that create “circumstances that would lead to a **slow death**.”<sup>32</sup> Additionally, the Appeals Chamber clarified in *Tolimir* that actions satisfying the criteria of Article 4(2)(c) of the Statute generally involve “withholding or taking away the basic necessities of life over an extended period of time.”<sup>33</sup>

The ICTY provided that acts of physical destruction differ fundamentally from those aimed at the dissolution of a group, often termed “cultural genocide,” which falls outside the scope

29 Convention on the Prevention and Punishment of the Crime of Genocide (adopted 9 December 1948, entered into force 12 January 1951) 78 UNTS (Genocide Convention), art 2 <<https://treaties.un.org/doc/publication/unts/volume%2078/volume-78-i-1021-english.pdf>>.

30 For example: Prosecutor v. Zdravko Tolimir (Judgment in Appeals Chamber) ICTY-05-88/2-A (8 April 2015), para 225 <[https://www.icty.org/x/cases/tolimir/acjug/en/150408\\_judgement.pdf](https://www.icty.org/x/cases/tolimir/acjug/en/150408_judgement.pdf)>.

31 *Karadžić* (Judgment in Trial Chamber) (n 17), para 547 (emphasis added).

32 *Prosecutor v. Tolimir* (Judgment in Trial Chamber II) ICTY-05-88/2-T (12 December 2012), para 740 <<https://www.icty.org/x/cases/tolimir/tjug/en/121212.pdf>>.

33 *Prosecutor v. Zdravko Tolimir* (Judgment in Appeals Chamber) (n 30), para 234.



of the GC. *Tolimir* used forcible population transfer as an example of this distinction, stating that while it alone does not constitute an act of genocide, “it can be an additional means by which to ensure the physical destruction of a group.”<sup>34</sup> The case of *Milimir Stakic* offered the general view of the ICTY on this matter, underscoring that “[i]t does not suffice to deport a group or a part of a group. A clear distinction must be drawn between physical destruction and mere dissolution of a group. The expulsion of a group or part of a group does not in itself suffice for genocide.”<sup>35</sup>

While the ICTY has established consistently that forced displacement/transfer does not, in and of itself, constitute genocide, **it may still be considered an act of genocide when occurring alongside other acts**. Furthermore, the international criminal tribunals for Yugoslavia and Rwanda<sup>36</sup> and the ICJ all explicitly list systematic forced displacement as an example of the conditions of life intended to bring about the physical destruction of a group, as outlined in Article 2(c) of the GC. The ICJ held in the case of *Croatia v. Serbia* that Article 2(c) “covers methods of physical destruction, other than killing, whereby the perpetrator ultimately seeks the death of the members of the group,” with “**systematic expulsions from homes**” cited as an example.<sup>37</sup> Therefore, if forced displacement ultimately results, or aims to, in the physical destruction of a group, then it constitutes an underlying act of genocide. Article 2(c) indicates the infliction of “conditions”, rather than a single condition, inferring that forced displacement when occurring alongside other conditions satisfies the *actus reus* of Article 2(c). As the Trial Chamber in *Milimir Stakic* emphasized, “deporting a group or part of a group is insufficient if it is not accompanied by methods seeking the physical destruction of the group.”<sup>38</sup> Other conditions falling under Article 2(c) include: “subjecting the group to a subsistence diet; failing to provide adequate medical care; [...] and generally creating circumstances that would lead to a slow death such as the lack of proper food, water, shelter, clothing, sanitation, or subjecting members of the group to excessive work or physical exertion.”<sup>39</sup> **In conclusion, when forced displacement occurs alongside, and/or leads to, these conditions, it may amount to an act of genocide.**

As for evidence regarding the commission of the act, the Trial Chamber in the case of *Tolimir* found that, in contrast to Article 4(2)(a) and (b), Article 4(2)(c) does not necessitate “proof of a result such as the ultimate physical destruction of the group in whole or in part.” In cases where there is lack of direct evidence regarding the “conditions of life” inflicted on a group causing its physical destruction, **a tribunal may rely on the “objective probability” that these conditions could lead to partial physical destruction**. This assessment involves considering factors such as the nature of the imposed conditions, the duration of exposure experienced by the group members, and the “characteristics of the targeted group such as its vulnerability.”<sup>40</sup> Therefore, establishing an act under Article 2(c) is not only dependent on the outcome of the act itself, but also on the circumstances surrounding the act and its potential consequences.

---

34 *ibid* para 741.

35 *Prosecutor v. Milimir Stakic* (Judgment in Trial Chamber II) IT-97-24-T (31 July 2003), para 519 <<https://www.refworld.org/jurisprudence/caselaw/icty/2003/en/40192>>.

36 See: In the ICTY: *Tolimir* (Judgment in Appeals Chamber) (n 30), para 228; *Milimir Stakic* (Judgment in Trial Chamber II) (n 35) para 517; *Prosecutor v. Radovan Karadzic* (Judgment in Trial Chamber) (n 17), para 547; In the International Criminal Tribunal of Rwanda (ICTR): *Prosecutor v. Jean-Paul Akayesu* (Judgment) ICTR-96-4-T (2 September 1998), para 506

37 *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, Judgment, I.C.J. Reports 2015, para 161 (emphasis added) <<https://www.icj-cij.org/sites/default/files/case-related/118/118-20150203-JUD-01-00-EN.pdf>>

38 *Stakic* (Judgment in Trial Chamber II) (n 35), para 557

39 *Tolimir* (Judgment in Trial Chamber II) (n 32) para 740.

40 *ibid* paras 741-742.

The jurisprudence dictates that forced displacement and population transfer may be considered an act of genocide under Article 2(c) of the GC when occurring alongside other acts or conditions that would lead to the slow death of the group. It can, therefore, be concluded that when forced displacement is accompanied by, *inter alia* (among other things), starvation, the failure to provide adequate medical care, and the withholding of food, water, clothing, or sanitation, it may very well constitute an act of genocide especially when considering the objective probability that, given the circumstances and particular vulnerability of the group, this would lead to the physical destruction of the group in whole or in part.

## 2.2. The *Mens Rea* Element

Much like genocide at large, the intent to physically destroy a national, ethnical, racial or religious group plays a significant role in the application of Article 2(c). It is this *dolus specialis* (special intent) that makes the crime of genocide so unique. Within the guidance provided by the 1985 UN Report on the Question of the Prevention and Punishment of the Crime of Genocide, it is made clear that intent needs not be explicitly professed but can be inferred from “sufficient evidence, [including] actions or omissions of such a degree of criminal negligence or recklessness that the defendant must reasonably be assumed to have been aware of the consequences of his conduct [...] In certain cases, calculated neglect or negligence may be sufficient to destroy a designated group wholly or partially through, for instance, famine or disease.”<sup>41</sup> In *Tolimir*, it is specified that these acts are relevant only when deliberately calculated for the group’s physical or biological destruction, as opposed to the “mere dissolution” of the group or “cultural genocide”.<sup>42</sup>

One of the main challenges in proving forced population transfer as a genocidal act in previous cases has been demonstrating the specific intent to physically destroy a group. The Trial Chamber in *Tolimir* first found that, when considered along with the killing of Bosnian Muslim men, forced displacement contributed to the destruction of the Muslim population, referencing various impacts such as psychological trauma, breakdown of family life, and the prevention of normal living and reproduction.<sup>43</sup> The Appeals Chamber, however, decided that the Trial Chamber had made an error in considering forced displacement and the killing of Bosnian men as a combined effect achieving the physical destruction of the group, per Article 4(2)(c). The Chamber provided that the forcible population transfer operations, when considered separately from the killing of Srebrenica’s male population, do not indicate that they were executed with the specific intent to physically destroy the group. They highlighted that Article 4(2)(c) of the ICTY Statute pertains to methods of physical destruction where the perpetrator ultimately aims for the death of the group members. However, those who underwent the transfer were relocated to a secure territory, eliminating any imminent risk of physical extinction. As a result, it found that there was insufficient evidence to establish beyond reasonable doubt that the policy of removal was intended to cause conditions of life to bring about the physical destruction of the population.<sup>44</sup>

In the case of *Karadzija*, the Chamber similarly concluded that the forced displacement of Bosnians in one of the municipalities did not satisfy the intent to destroy the Bosnian Muslim group. Rather, they stated that there are alternative intentions for these forced

---

41 UN ECOSOC, ‘Revised and updated report on the question of the prevention and punishment of the crime of genocide prepared by B. Whitaker’ (2 July 1985) E/CN.4/Sub.2/1985/6, paras 39-40 (emphasis added) <<https://digitallibrary.un.org/record/108352?ln=en>>.

42 *Tolimir* (Judgment in Trial Chamber II) (n 32), para 741

43 *ibid* paras 760 and 763.

44 *Tolimir* (Judgment in Appeals Chamber) (n 30), paras 229-234.

displacements, like to “ensure the removal” of the Bosnian Muslims from that specific area.<sup>45</sup> This was solidified in the 2007 ICJ judgment on the case of *Bosnia and Herzegovina v. Serbia and Montenegro*, in which the Court found that the evidence provided on the forced displacements does not concretely establish that they were committed with the intent to destroy the group.<sup>46</sup> The main point of contention was that forced displacement in Bosnia was often labeled as ethnic cleansing — defined as making an area “ethnically homogeneous” through force or intimidation. The court clarified that the intent to render an area ethnically homogeneous does not inherently qualify as genocide, which specifically necessitates the intent to destroy a group. Nevertheless, it also stated that, in accordance with Article 2(c) of the GC, **acts of ethnic cleansing may still be considered as acts of genocide, when they are carried out with the required specific intent to destroy a group.**<sup>47</sup>

When assessing forced population transfer as an act of genocide, it must be proven that the intent, was unequivocally to physically destroy that group, eliminating alternative interpretations of dissolution or removal operations. Acts falling under Article 2(c) are stated to “typically relate to the deliberate withholding or taking away of the basic necessities of life over an extended period of time.”<sup>48</sup> Therefore, if those displaced are, for example, targeted while evacuating, not resettled in safe areas and deliberately deprived of the necessities needed to survive, it can indicate genocidal intent, thereby establishing forced displacement as an act of genocide.

**Ultimately, in order to establish forced displacement and population transfer as an act of genocide under Article 2(c) of the Genocide Convention, it is critical to demonstrate its role in bringing about the physical destruction of a group and the intent to do so.** For the *actus reus* element, it is essential to consider the conditions accompanying the forced displacement and imposed on the displaced, such as a lack of life necessities. A fundamental aspect of Article 2(c) is that these conditions have to ultimately seek the eventual physical destruction of the group, or in other words, the slow death of the group. The decisive element that sets an act of genocide apart from other acts commonly attributed to forced displacement, namely dissolution and ethnic cleansing, is the presense of *dolus specialis*. Therefore, to establish *mens rea*, forced displacement must be proven to be carried out with the specific intent to physically destroy a group, beyond reasonable doubt.

---

45 *Karadzic* (Judgment in Trial Chamber) (n 17), para 2624.

46 *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)*, Judgment, I.C.J. Reports 2007, para 334 <[https://t.ly/F\\_XRm](https://t.ly/F_XRm)>

47 *ibid*, para 190.

48 *Tolimir* (Judgment in Appeals Chamber) (n 30), para 234.



### 3. Overview of the Situation in the Gaza Strip

As stated prior, the Palestinian population in Gaza forms a very substantial and significant part of the Palestinian people, a national, racial, and ethnic group protected by the Convention on the Prevention and Punishment of the Crime of Genocide. Palestinians in Gaza have been at the sharpest edge of Israeli colonization and violence for decades, and it is this subjugation that highlights their particular vulnerability in the midst of this genocide.

Over 81 percent of the population in Gaza are refugees, descending from Palestinians dispossessed and displaced during and after the Nakba of 1948, with the majority of the population having been internally displaced multiple times as a result of Israel's consistent assaults on the Strip over the years. Beyond their refugee and/or IDP status, there are also multiple levels of vulnerability within Gaza's society. Children make up nearly half of Gaza's population, representing 47.3 percent of the total population in 2022.<sup>49</sup> This means that any time Israel bombards, starves, represses, and suffocates the Gaza Strip through its indiscriminate policies of collective punishment, it is assured that at least half of the victims will be children. Indeed, by November of 2023, Antonio Guterres, Secretary-General of the UN, asserted that Israel was "turning Gaza into 'graveyard for children'", noting that Israel was killing one Palestinian child every 10 minutes.<sup>50</sup>

Since 2007, Israel has imposed a brutal land, sea, and air blockade on the Gaza Strip, restricting the movement of people and goods in and out of the area. Admissions from Israeli officials made it clear that the purpose of the blockade was to "keep Gaza's economy on the brink of collapse"<sup>51</sup> and "put the Palestinians on a diet."<sup>52</sup> This has had a devastating impact on the lives and livelihoods of the Palestinian population in Gaza, who have faced severe shortages of basic necessities such as food, fuel, and medical supplies, to the point where, in 2018, the UN Special Rapporteur for the Situation of Human Rights in the OPT warned that Gaza would be "unlivable" by 2020.<sup>53</sup>

The blockade has severely hampered economic conditions, leading to high unemployment rates and widespread poverty, with 81.5 percent of the population living below the poverty line even before the onset of Israel's genocidal war.<sup>54</sup> On the severity of the situation in Gaza, the UN Conference on Trade and Development (UNCTAD) provided: "For over a decade and a half Gaza has been largely removed from the development agenda and has been rendered a humanitarian disaster area with 80 per cent of the population dependent on international aid."<sup>55</sup>

Many Palestinians have had their homes destroyed at least once throughout Israel's multiple assaults on the Strip, with extremely restricted access to reconstruction materials due to the ongoing blockade. Israel destroyed the Gaza International Airport and its air navigation

---

49 UNICEF, 'Situation Analysis of Children's Rights and Wellbeing in the State of Palestine' (July 2023) <<https://t.ly/n2myj>>.

50 OHCHR Special Procedures, 'Gaza: UN experts call on international community to prevent genocide against the Palestinian people' (OHCHR, 16 November 2023) <<https://t.ly/WBYMX>>.

51 'Cashless in Gaza?' (*Wikileaks*, 3 November 2008) <[https://wikileaks.org/plusd/cables/08TELAVIV2447\\_a.html](https://wikileaks.org/plusd/cables/08TELAVIV2447_a.html)>.

52 Dov Weisglass (Advisor to the Israeli Prime Minister) in Conal Urquhart, 'Gaza on brink of implosion as aid cut-off starts to bite' (*The Guardian*, 16 April 2006) <<https://www.theguardian.com/world/2006/apr/16/israel>>.

53 UNISPAL, 'Gaza "Unlivable"', UN Special Rapporteur for the Situation of Human Rights in the OPT Tells Third Committee – Press Release (Excerpts) (UNISPAL, 24 October 2018) GA/SHC/4242 <[https://t.ly/\\_AuZ\\_](https://t.ly/_AuZ_)>.

54 UNRWA, 'Where We Work' (UNRWA, August 2023) <<https://www.unrwa.org/where-we-work/gaza-strip>>.

55 United Nations Conference on Trade and Development (UNCTAD), 'Preliminary Assessment of the Economic Impact of the Destruction in Gaza and Prospects for Economic Recovery' (31 January 2024) UNCTAD/OSG/INF/2024/1 <<https://unctad.org/publication/preliminary-assessment-economic-impact-destruction-gaza-and-prospects-economic-recovery>>.

facilities in 2002 “so as to render the airport inoperable,”<sup>56</sup> has consistently attacked and suspended fuel supplies to Gaza’s desalination and sewage plants and only electrical power plant over the years,<sup>57</sup> has bombed large swathes of agricultural land,<sup>58</sup> and has done everything in its power to cripple Gaza’s infrastructure and its development. Just one month prior to the start of Israel’s genocide, the UN Office for the Coordination of Humanitarian Affairs (OCHA) recorded that electricity was available in Gaza in 2023 for just an average of 10 hours a day.<sup>59</sup> OCHA recorded 12,076 truckloads of authorized goods entering Gaza through the Israeli and Egyptian-controlled crossings in August 2023, which was determined to be insufficient due to the 60 percent increase in Gaza’s population since the start of the blockade.<sup>60</sup> United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) reported that in April 2024, 5,671 trucks entered the Strip, representing the highest entry of goods allowed into Gaza since the opening of land routes in 21 October 2023<sup>61</sup> - though representing only 47 percent of what was received in August 2023, which was still insufficient for the needs of the population prior to the genocide.

These dire conditions place the Palestinian population in the Gaza Strip in a situation of significant vulnerability, which has been further exacerbated since 7 October 2023. Israel’s relentless bombardment throughout the entire Gaza Strip, accompanied by the directive issued by Israeli Defense Minister Yoav Gallant on 9 October 2023, calling for “a complete siege [...] no electricity, no water, no food, no fuel” on Gaza, and proclaiming that Israel is “fighting human animals and [is] acting accordingly”<sup>62</sup>, escalated significantly what was already an untenable and catastrophic situation. From just the initial week of Israel’s genocidal campaign against the Gaza Strip, the magnitude of the assault was reported to be unprecedented.<sup>63</sup> Antonio Guterres, in a statement on 9 October 2023, cautioned that Gaza’s already dire humanitarian situation will “only deteriorate exponentially.”<sup>64</sup> By 16 November 2023, UN experts had stated that Israel’s violations in Gaza “point to a genocide in the making.”<sup>65</sup> As of 26 April 2024, Israel has killed at least 34,356 Palestinians in Gaza, of whom about 70 percent were women and children, with 77,368 injured. Approximately 1.7 million out of Gaza’s 2.3 million inhabitants have been internally displaced, representing 75

56 Council of the International Civil Aviation Organization (ICAO), ‘Destruction of Gaza International Airport – ICAO Council resolution – ICAO press release’ (UNISPAL, 13 March 2002) <<https://www.un.org/unispal/document/auto-insert-199706/>>.

57 OCHA, WFP, WHO, UNICEF, UNRWA, ‘Gaza Humanitarian Situation: Impact of fuel shortages on sanitation/sea pollution’ (29 April 2008) <<https://www.un.org/unispal/document/auto-insert-202833/>>; Oxfam, ‘Almost a fifth of people in Gaza do not have access to clean water after bombardment’ (Reliefweb, 25 May 2021) <<https://reliefweb.int/report/occupied-palestinian-territory/almost-fifth-people-gaza-do-not-have-access-clean-water-after/>>; OHCHR, ‘Israel must stop using water as a weapon of war: UN expert’ (OHCHR, 17 November 2023) <<https://www.ohchr.org/en/press-releases/2023/11/israel-must-stop-using-water-weapon-war-un-expert/>>.

58 Al-Haq, ‘“Operation Cast Lead”: A Statistical Analysis’ (August 2009) <<https://2h.ac/NmeF>>; Al-Haq, ‘Israel’s Indiscriminate and Disproportionate Attacks on Palestinian Civilians Violates International Humanitarian Law, Indicate War Crimes’ (Al-Haq, 8 August 2022) <<https://www.alhaq.org/advocacy/20394.html>>; UNOSTAT, ‘UNOSAT Gaza Strip Agricultural Damage Assessment - January 2024’ (Reliefweb, 1 February 2024) <<https://reliefweb.int/map/occupied-palestinian-territory/unosat-gaza-strip-agricultural-damage-assessment-january-2024>>.

59 OCHA, ‘Electricity in the Gaza Strip’ (OCHA *nPt*, September 2023) <<https://www.ochaopt.org/page/gaza-strip-electricity-supply>>.

60 OCHA, ‘Movement in and out of Gaza: update covering August 2023’ (OCHA *nPt*, 18 September 2023) <<https://www.ochaopt.org/content/movement-and-out-gaza-update-covering-august-2023>>.

61 UNRWA, ‘UNRWA Situation Report #106 on the Situation in the Gaza Strip and the West Bank, Including East Jerusalem’ (UNRWA, 7 May 2024) <<https://www.unrwa.org/resources/reports/unrwa-situation-report-106-situation-gaza-strip-and-west-bank-including-east-jerusalem>>.

62 Yoav Gallant, ‘I ordered a complete siege on Gaza’ (X, 9 October 2023) <<https://2h.ac/RHtE>> accessed 28 February 2024

63 Ameneh Mehvar, ‘Fact Sheet: Israel and Palestine Conflict’ (ACLEDD, 31 October 2023) <<https://acleddata.com/2023/10/10/fact-sheet-israel-and-palestine-conflict/>>.

64 António Guterres, UN Secretary-General, ‘Secretary-General’s remarks to the press on the situation in the Middle East’ (UN, 9 October 2023) <<https://www.un.org/sg/en/content/sg/speeches/2023-10-09/secretary-generals-remarks-the-press-the-situation-the-middle-east>>.

65 OHCHR (n 6).

percent of the population.<sup>66</sup> Additionally, as last reported in February 2024, 17,000 children are left unaccompanied or separated from their parents - a number likely to have increased significantly with the escalation of Israel's killing and displacement of Palestinians in Gaza over the months.<sup>67</sup>

Israel's obstruction of the entry of all goods and humanitarian aid into Gaza has led to crisis levels of food insecurity.<sup>68</sup> As it has for decades, Israel is using starvation as a method of warfare,<sup>69</sup> deliberately starving Palestinians and manufacturing a famine in Gaza that, according to the UN Special Rapporteur (SR) on Food's report made on 3 March 2024, "may very well be already occurring."<sup>70</sup>

On 29 December 2023, South Africa, abiding by its obligations as a State party to the Genocide Convention, initiated proceedings against Israel at the ICJ. Its application accused Israel of committing genocide in the Gaza Strip, as the perpetrator of acts falling under Article 2(a-d) of the GC. South Africa provided that Israel's forced displacement of Palestinians in Gaza, which was documented to impact 85 percent of the population at the time of the Application,<sup>71</sup> falls under imposing "conditions of life intended to bring about their destruction as a group," i.e. Article 2(c) of the GC, "alongside the large-scale destruction of homes and residential areas."<sup>72</sup> South Africa states that Israel's "evacuation orders" to the Palestinians in the north to move to the south are not consistent with IHL, citing the ICRC. The Application provided that many who did not comply with Israel's "evacuation" directive have been bombed. Those who attempted to "evacuate", having been instructed to move through the Salah Al-Din Road, were reported on numerous instances to have faced *inter alia* (among other things) bombings, killings, and arrests along the road.<sup>73</sup> On the issue of forced displacement, the Application included in its request for the Court to indicate provisional measures for Israel to: "desist from, and take all measures within its power including the rescinding of relevant orders, of restrictions and/or of prohibitions to prevent: (a) the expulsion and forced displacement from their homes."<sup>74</sup>

---

66 OCHA, 'Hostilities in the Gaza Strip and Israel - reported impact | Day 203' (OCHA *oPt*, 26 April 2024) <<https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-reported-impact-day-203>>.

67 UNICEF, 'Stories of loss and grief: At least 17,000 children are estimated to be unaccompanied or separated from their parents in the Gaza Strip' (UNICEF, 2 February 2024) <<https://2h.ae/lDGk>>.

68 OCHA, 'Humanitarian Needs and Response Update | 27 February - 4 March 2024' (Reliefweb, 5 March 2024) <<https://reliefweb.int/report/occupied-palestinian-territory/humanitarian-needs-and-response-update-27-february-4-march-2024>>.

69 UNSC, 'Famine Imminent in Gaza, Humanitarian Officials (OCHA, FAO, WFP) Tell Security Council, Calling for Immediate Ceasefire – Security Council- Press release' (27 February 2024) 9560TH MTG (PM) SC/15604 <<https://www.un.org/press/docs/2024/240227.sc15604.html>> <[Famine Imminent in Gaza, Humanitarian Officials \(OCHA, FAO, WFP\) Tell Security Council, Calling for Immediate Ceasefire](https://www.un.org/press/docs/2024/240227.sc15604.html)>.

70 UN Special Rapporteur on the Right to Food, Michael Fakhri, 'Israel has been intentionally starving the Palestinian people' (X, 3 March 2024) <<https://2h.ae/pDAP>>

71 Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (*South Africa v. Israel*) (29 December 2023), Application instituting proceedings and request for the indication of provisional measures, para 55 <<https://www.icj-cij.org/sites/default/files/case-related/192/192-20231228-app-01-00-en.pdf>>.

72 *ibid* para 43.

73 *ibid* paras 56 and 57.

74 *ibid* para 144(5).

## 4. Forced Transfer as a Component of the Genocide against Gaza under Article 2(c) of the Genocide Convention

This section provides an in-depth analysis of the forced displacement and population transfer carried out in the Gaza Strip, using the legal frameworks established by the ICTY and other sources of jurisprudence on genocide, as discussed in the paper's previous sections. It section asserts that forced displacement, a key component of Israel's genocidal war on Gaza, meets the criteria for genocide under Article 2(c) of the Genocide Convention. Section 4.1 examines the illegality of Israel's "evacuation orders," as well as the broader context surrounding forced displacement. Section 4.2 establishes *mens rea*, exploring Israel's targeted attacks on routes and shelters designated "safe" for IDPs, and how they prove Israel's intent to cause the destruction of the Palestinian group in Gaza, through forced displacement and population transfer. Section 4.3 explores the *actus reus* element and the ways in which forced displacement and accompanying acts—including starvation, disabling UNRWA from fulfilling its mandate, the destruction of homes, and the perilous conditions within shelters and hospitals—fall within the framework of Article 2(c).

### 4.1. Illegality of the Israeli "Evacuation Orders"

On 13 October 2023, Israel issued an "evacuation order" to all of the Palestinians in the north of Gaza to move south within 24 hours. It claimed that the evacuation was ordered for the "safety" of those in the north, and that it will permit them to return home in a future announcement.<sup>75</sup> Israel's order applied to the 1.1 million people residing in the north of Gaza, to the 23 hospitals operating there that were treating over 2,000 patients,<sup>76</sup> and to organizations, including UNRWA. The Agency relocated its central operations outside of northern Gaza following the "evacuation order," and reported as early as 15 October 2023 that it was "no longer able to assist or protect" the large number of IDPs still taking shelter in UNRWA facilities at the time.<sup>77</sup>

Following the "evacuation order," the UN stated that it is "impossible for such a movement to take place without devastating humanitarian consequences."<sup>78</sup> Similarly, the ICRC warned that this order "triggers catastrophic humanitarian consequences."<sup>79</sup> The World Health Organization (WHO) reported that "the evacuation orders by Israel to hospitals in northern Gaza are a death sentence for the sick and injured." WHO warned that many critically ill patients, including those in intensive care and "newborns in incubators", are at risk of facing "imminent deterioration of their condition, or death, if they are forced to move and are cut off from life-saving medical attention while being evacuated."<sup>80</sup>

---

75 Israeli Defense Forces, 'IDF Announcement Sent to the Civilians of Gaza City' (IDF, 13 October 2023) <<https://www.idf.il/en/mini-sites/idf-press-releases-regarding-the-hamas-israel-war/october-23-pr/idf-announcement-sent-to-the-civilians-of-gaza-city/>>.

76 oPt Health Cluster and (WHO) World Health Organization, 'Hospital Evacuation Orders Mapping as of 16th October 2023' (Reliefweb, 18 October 2023) <<https://reliefweb.int/map/occupied-palestinian-territory/hospital-evacuation-orders-mapping-16th-october-2023>>.

77 UNRWA, 'Situation Report #6 on the Gaza Strip & the West Bank' (UNRWA, 15 October 2023) <<https://www.unrwa.org/resources/reports/situation-report-6-gaza-strip-west-bank>>.

78 Stéphane Dujarric, Spokesman for the Secretary-General, 'Note to correspondents on Gaza' (UN, 12 October 2023) <<https://www.un.org/press/en/2023/sgsm18287.docstxt>>.

79 ICRC, 'Israel and the occupied territories' (ICRC, 13 October 2023) <<https://www.icrc.org/en/document/israel-and-occupied-territories-evacuation-order-of-gaza-triggers-catastrophic-humanitarian-consequences>>.

80 WHO Media Team, 'Evacuation orders by Israel to hospitals' (WHO, 14 October 2023) <<https://www.who.int/news/item/14-10-2023-evacuation-orders-by-israel-to-hospitals-in-northern-gaza-are-a-death-sentence-for-the-sick-and-injured>>.

The many early warnings from multiple international organizations **indicate that Israel was highly aware of the consequences that would arise with the mass forcible “evacuation” of the Palestinian out of the north of Gaza.** In other words, Israel knew that forcibly displacing an already vulnerable population it had imposed a complete siege and blockade on since 2007, and additionally depriving them of basic goods, humanitarian aid and materials for building shelters, would lead to a severe humanitarian crisis at the very least.

Article 49 of the GCIV states that evacuation is unlawful unless it is carried out for the safety of the population, or for security or imperative military reasons. From the start, it was clear that Israel’s “evacuation orders” were not issued for the purpose of protecting the population in Gaza. As Human Rights Watch reported, when parties to a conflict issue warnings, they should “help them avoid harm.” However, Israel’s order calling on “civilians to flee, when there’s no safe place to go and no way to get there safely, neither suffices nor actually protects them.”<sup>81</sup> In reality, **Israel has carried out the forced displacement of Palestinians in order to facilitate its conquest and control over targeted areas and to ensure their permanent forced displacement and the physical destruction of the group.**

On 13 October 2023, just 6 days into the genocidal war on Gaza, a document from the Israeli Ministry of Intelligence was leaked, detailing an explicit plan that aims to carry out a genocide in Gaza by way of forcible transfer. The plan laid out three options, with the third (Option C) planning the “evacuation of the civilian population from Gaza to Sinai.” This option was determined to be “the option that will yield positive, long-term strategic outcomes for Israel, and is an executable option.” Option C stated that “Israel should act to evacuate the civilian population to Sinai,” and then emphasizes that a “sterile zone of several kilometers should be created within Egypt, and the return of the population to activities/residences near the border with Israel should not be allowed.”<sup>82</sup>

Meanwhile, Israeli officials have explicitly stated that the goals of emptying the north of Gaza of its inhabitants are to “exact a territorial price,”<sup>83</sup> and ensure a “return to Jewish settlement in the northern Gaza Strip.”<sup>84</sup> Further, several members of the Israeli government joined a conference that discussed the resettlement of the Gaza Strip,<sup>85</sup> and state-backed colonizers had invaded northern Gaza to set up colonial outposts.<sup>86</sup> All of these facts, therefore, refute any claim that Israel issued the evacuation order for the safety of the Palestinian population and make clear that Israel had no intention to ensure the return of the “evacuated” population. On the contrary, Israel clearly articulated and implemented their internal forced displacement with the intention to expel Palestinians outside of the occupied Gaza Strip, in direct violation of Article 49 of the GCIV.

On 1 December 2023, Israel unveiled an online map delineating Gaza into numerous blocks, claiming to identify “safe” areas and those requiring evacuation, and instructing residents in

---

81 Sari Bashi, ‘Why Israel’s Gaza Evacuation Order is So Alarming’ (*Human Rights Watch*, 16 October 2023) <<https://www.hrw.org/news/2023/10/16/why-israels-gaza-evacuation-order-so-alarming>>.

82 +972 Magazine translation, ‘Israeli Intelligence Ministry Policy Paper On Gaza’s Civilian Population, October 2023’ (*Scribd*, 30 October 2023) <<https://2h.ae/vRNT>>.

83 As stated by a Member of the Knesset for National Union–Tkuma, Ohad Tal: Yedidya Shalman, ‘MK Ohad Tal to Channel 7: I strive to collect a territorial price from Hamas’ (*Israel National News*, 16 October 2023) <<https://www.inn.co.il/news/616871>> (translated on X (X, 25 October 2023) <<https://twitter.com/YehudaShaul/status/1717219196788973576>>).

84 As stated by Deputy Speaker of the Knesset and Member of the Foreign Affairs and Security Committee, Nissim Vaturi <<https://twitter.com/nissimv/status/1724426683959148893>>.

85 Al Jazeera, ‘Israeli ministers join gathering calling for resettlement of Gaza’ (Al Jazeera, 29 January 2024) <<https://www.aljazeera.com/news/2024/1/29/israeli-ministers-join-gathering-calling-for-rebuilding-settlements-in-gaza>>.

86 Oren Ziv, ‘Israeli settlers cross into Gaza, build ‘symbolic’ outpost’ (+972 Magazine, 1 March 2024) <<https://2h.ae/PFXO>>.



Gaza to monitor their block numbers and adhere to army instructions.<sup>87</sup> The map, at that time, encompassed almost 30 percent of the Strip,<sup>88</sup> and was disseminated via QR codes on leaflets. This approach can only be described as symbolic and a tool of psychological warfare, given that this web-based map was provided to a population that is under constant Israeli-imposed media and communication blackouts and who have little to no access to electricity.<sup>89</sup> On this matter, UNICEF stated: “Expecting hundreds of thousands of people to relocate again and again, in the middle of a war with no pause in fighting, is simply unworkable.”<sup>90</sup> As Israel transformed the south of Gaza from a so-called “safe zone” into various blocks of “safer zones,” those who sought shelter throughout the Strip and in the south were faced with perpetual displacement.<sup>91</sup> By 2 February 2024, OCHA reported that 67 percent of the Gaza Strip was placed under “evacuation orders.”<sup>92</sup> Amidst all of this, it is crucial to remember that, as many have repeatedly stated since October, **there is no safe place in Gaza.**

Under Article 49 of the GCIV, it is the Occupying Power’s duty to provide those evacuated with proper shelter and “satisfactory conditions of hygiene, health, safety, and nutrition,” as well as to prevent the separation of family members.<sup>93</sup> Israel’s actions have not only transformed the entirety of the Gaza Strip into a combat zone, but have also deliberately targeted purported “safe zones” with airstrikes, while still directing Palestinians to these areas. Save the Children in Palestine provided that “[t]hese relocation orders offer nothing more than a smokescreen of safety. If people stay, they are killed. If they move, they are killed.”<sup>94</sup> Places designated as “safe zones”, such as Al-Mawasi and Rafah, have faced direct and severe attacks. Rafah, in particular, contains a significant portion of the displaced population and is now under threat of an imminent ground invasion. Israel’s actions that direct civilians to areas subjected to attacks not only fail to fulfill the provision of safety, but deliberately force Palestinians into unsafe environments, facilitating displacement *en masse* that deliberately aims to lead the group to its death. As will be discussed further below (see: section 4.3), IDPs in Gaza also face the separation of families and conditions of inadequate shelter, food, water, and health care. These conditions directly contravene Israel’s responsibilities as an Occupying Power, to ensure the safety and needs of the population it ordered to “evacuate”. As confirmed by the UN Special Rapporteur on the human rights of IDPs, Paula Gaviria Betancur, “Israel’s evacuation orders have not made the people of Gaza safer; on the contrary, they have been used to forcibly transfer and confine the civilian population in unlivable conditions.”<sup>95</sup>

In conclusion, Israel’s directives, impacting the vast majority of Gaza’s population and geography in Gaza, do not serve to ensure the safety of the civilian population, but rather

---

87 Israeli Defense Forces ‘The IDF publishes a list of block numbers to guide the residents of Gaza in evacuating targeted areas’ (*IDF*, 1 December 2023) <<https://www.idf.il/152678/>>.

88 OCHA, ‘Hostilities in the Gaza Strip and Israel | Flash Update #62’ (*OCHA oPt*, 7 December 2023) <<https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-62>>.

89 Emma Graham-Harrison and Jason Burke, ‘Israeli grid maps make life in Gaza ‘macabre game of Battleships’, say aid workers’ (*The Guardian*, 2 December 2023) <<https://www.theguardian.com/world/2023/dec/02/israeli-grid-system-makes-life-in-gaza-macabre-game-of-battleships-say-aid-workers>>.

90 In a video posted via X by James Elder, ‘No water. No sanitation. No food. Just bombs.’ (X, 6 December 2023) <<https://2h.ae/SBKU0>>.

91 Steve Hendrix, Miriam Berger and Hazem Balousha, ‘Israel touts civilian warning system, but for Gazans, nowhere is safe’ (*The Washington Post*, 6 December 2023) <<https://www.washingtonpost.com/world/2023/12/06/israel-gaza-civilians-protection/>>.

92 OCHA, ‘Hostilities in the Gaza Strip and Israel | Flash Update #109’ (*OCHA oPt*, 2 February 2024) <<https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-109>>.

93 GCIV (n 14) art 49.

94 Save the Children, ‘No Safe Place in Gaza: 14 Killed, Mostly Children’ (*Save the Children*, 4 January 2024) <<https://www.savethechildren.org.uk/news/media-centre/press-releases/fourteen-killed-near-humanitarian-zone-in-gaza>>.

95 Paula Gaviria Betancur, UN Special Rapporteur on the human rights of internally displaced persons, ‘Gaza: Israel’s dehumanisation of displaced persons must end, says UN expert’ (*UN*, 4 March 2024) <<https://www.un.org/unispal/document/gaza-israels-dehumanisation-must-end-says-unohchr-6mar24/>>.

exhibit systematic and repetitive acts of forcible displacement and population transfer.

## 4.2. Establishing *Mens Rea*: The Route of Death and Direct Targeting of Displaced Persons

As provided in section 2, the *mens rea* required for an act falling under Article 2(c) of the Genocide Convention is the intent to bring about the physical destruction of the group. In the context of forced displacement in Gaza, this intent is largely established by the **widespread impact of the displacement, affecting not just a small segment but the majority of the group**. Furthermore, the systematic and repetitive nature of the displacement underscores its severity, with a staggering 75 percent of the population displaced and 67 percent of Gaza's areas subjected to so-called evacuation orders by Israel. This campaign of forcible transfer - not evacuation - also goes beyond mere relocation. Displaced Palestinians are instructed by Israel to go to locations with inadequate living conditions (see below: Act 1) and are continuously enduring deliberate bombardment and targeted attacks. This section will delve into Israel's attacks on designated "safe routes", UN facilities, schools, hospitals, and "safe evacuation zones", examining how they contribute to establishing *mens rea*, intent to physically destroy the group, behind Israel's imposition of conditions leading to "slow death" for IDPs.

The Salah Al-Din Road, the main route connecting the southern and northern regions of the Gaza Strip, has been subjected to various targeted attacks by Israel. Upon the issuance of its "evacuation orders" on 13 October 2023, Israel had instructed those in the north of Gaza to go south through the Salah Al-Din Road, which it designated a "safe route," announcing that it will not "touch" the route until 8 p.m. of that day.<sup>96</sup> As Palestinians began to flee, following the instructions of the Israeli forces, they were targeted by Israeli missile strikes, resulting in the killing of 70 and injuring of 700.<sup>97</sup> On 3 November 2023, at least 14 Palestinians were killed while attempting to escape bombardment along al-Rashid road — Gaza's coastal route, which Israel had previously instructed Palestinians to take.<sup>98</sup> Others who fled to the south recounted raising their hands and displaying white flags as they passed Israeli forces on the road, with some reporting Israeli soldiers firing at them and passing "bodies strewn alongside the road."<sup>99</sup> Footage released from 12 November 2023, depicted the shooting and killing of a Palestinian woman by Israeli forces as she and others, waving white flags, tried to evacuate Gaza City.<sup>100</sup>

Israel's targeting of Palestinians on routes it, itself, had declared "safe" and "evacuation routes," is not an isolated act or accident, but rather a practice. These actions demonstrate the genocidal intent behind Israel's forced displacement of Palestinians. Israel directed people to use these roads under the guise of ensuring their safety, only to then deliberately attack them as they attempted to flee. Instead of providing safe passages, Israel utilized these roads as death traps for Palestinians it forcibly transferred. The attacks along these roads were systematically designed to confront all fleeing individuals, illustrating the *mens rea* behind Israel's strategy to inflict conditions of life aimed at physically destroying Palestinians in Gaza. Due to the extent of this Israeli practice, the Salah Al-Din Road has been dubbed the

---

96 Lieutenant Colonel in the Israel Occupation Forces, Avichay Adraee, Post on Facebook (*Facebook*, 13 October 2023) <<https://rb.gy/zzuj1b>>

97 Muna Asghar, '70 Palestinians killed, 200 injured' (*Anadolu Agency*, 13 October 2023) <<https://www.aa.com.tr/en/middle-east/70-palestinians-killed-200-injured-as-israel-strikes-convoy-of-displaced-people-in-gaza-interior-ministry/3019172>>.

98 Farah Najjar and Joseph Stepanky, 'Israel-Hamas war updates' (*Al-Jazeera*, 3 November 2023) <<https://www.aljazeera.com/news/liveblog/2023/11/3/israel-hamas-war-live-israeli-forces-gather-outside-gaza-city?update=2459864>>.

99 Wafaa Shurafa, Samy Magdy, and Kareem Chehayeb, 'Civilians fleeing northern Gaza's combat zone' (*AP News*, 7 November 2023). <<https://apnews.com/article/civilians-fleeing-gaza-combat-israel-ground-operation-656545c0bd132d5dc2b6d108687ff13e>>.

100 Palestine Chronicle Staff, 'Israeli Forces Shoot Woman with Child Holding White Flag' (*Palestine Chronicle*, 9 January 2024). <<https://www.palestinechronicle.com/israeli-forces-shoot-woman-with-child-holding-white-flag-video/>>.

“Corridor of death and humiliation” by a fleeing Palestinian journalist,<sup>101</sup> and referred to as the “passage of death” by others.<sup>102</sup> The reality behind this nomenclature exposes the grim nature of the so-called “humanitarian corridor” and Israel’s genocidal intent. To put it more clearly: ordering a group to evacuate under the threat of death, and subsequently attacking them on the designated route, now referred to by many as the “passage of death,” indicates the intention to physically destroy them as a collective.

This direct targeting is not confined to these Israeli designated “safe routes,” as IDPs also face deliberate bombardment in the places where they seek shelter. The UN reported that, on 24 January 2024, one of their shelters housing thousands of IDPs in Gaza was shelled, killing 12 and injuring more than 75 Palestinians.<sup>103</sup> These kinds of attacks also became an Israeli practice, with similar attacks on four UNRWA shelters, hosting around 20,000 IDPs, in November 2023, in which Israeli airstrikes killed 23.<sup>104</sup> As of its report on 26 April 2024, **UNRWA stated that there have been 362 “incidents impacting UNRWA premises and the people inside them”** since the start of Israel’s genocidal war. The UN agency estimates that at least 428 forcibly displaced Palestinians have been killed and 1,430 injured at its shelters.<sup>105</sup>

Those sheltering in hospitals and schools are also facing constant bombardment. On 25 April 2024, the Education Cluster reported that “65.3% of school buildings that have been used by IDP[s] as shelters are either [d]irectly hit or [d]amaged.”<sup>106</sup> Israeli attacks include the following on UNRWA schools that were being used as shelters by forcibly displaced Palestinians: an airstrike on Al-Maghazi School that killed six and injured dozens;<sup>107</sup> an attack on Al-Buraq school that killed 50,<sup>108</sup> an attack on Al-Fakhoura school in Jabalia refugee camp that killed 15 and wounded dozens.<sup>109</sup>

In addition, since 7 October 2023 and up until early April 2024, there have been “435 attacks on health facilities or personnel [...] equivalent to 73 attacks per month of war.” According to Save the Children, this number surpasses the monthly attack rates in all other war-torn nations since 2018.<sup>110</sup> Most of the attacks on health facilities have directly impacted IDPs, as many have found shelter at these hospitals. For example, the Al-Amal hospital, which sheltered 14,000 IDPs at that time, was hit with an Israeli airstrike in January that killed 5.<sup>111</sup> On 13 December 2023, Israeli bulldozers and tanks destroyed the tents of displaced Palestinians in Kamal Adwan hospital, crushing and burying alive many IDPs.<sup>112</sup> The Euro-Med Human Rights Monitor

---

101 Mustafa Abu Sneineh, “Operation Al-Aqsa Flood’ Day 44,” (*Mondoweiss*, 19 November 2023). <<https://rb.gy/rxb4qf>>.

102 A Correspondent in Gaza, “Gaza’s Salah al-Din highway ‘road of death in every sense of the word’” (*Al-Monitor*, 11 November 2023) <<https://rb.gy/z8xa4q>>; Linah Alsaafin and Maram Humaid, “Death corridor: The al-Samounis recall terror of ‘safe passage’ in Gaza,” (*Al-Jazeera*, 3 December 2023). <<https://rb.gy/2e3y5ta>>.

103 OCHA, ‘civilians trapped amid intensified attacks in Khan Younis’ (*OCHA oPt*, 25 January 2024). <<https://rb.gy/oossg3s>>.

104 OCHA, ‘Hostilities in the Gaza Strip and Israel | Flash Update #27’ (*OCHA oPt*, 2 November 2023) <<https://2h.ac/DOwS>>.

105 UNRWA, ‘UNRWA Situation Report #104’ (*UNRWA*, 26 April 2024) <<https://www.unrwa.org/resources/reports/unrwa-situation-report-104-situation-gaza-strip-and-west-bank-including-east-jerusalem>>.

106 Occupied Palestinian Territory Education Cluster, ‘Verification of damages to schools based on proximity to damaged sites’ (*Reliefweb*, 25 April 2024) <<https://reliefweb.int/report/occupied-palestinian-territory/verification-damages-schools-based-proximity-damaged-sites-gaza-occupied-palestinian-territory-25-april-2024>>.

107 Philippe Lazzarini, UNRWA Commissioner-General, ‘Gaza: UNRWA School Sheltering Displaced Families is Hit’ (*UNRWA*, 17 October 2023) <<https://www.unrwa.org/newsroom/official-statements/gaza-unrwa-school-sheltering-displaced-families-hit>>.

108 OCHA, ‘Hostilities in the Gaza Strip and Israel | Flash Update #36’ (*OCHA oPt*, 11 November 2023) <<https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-36>>.

109 Al-Jazeera, ‘Israel ramps up attacks in Gaza’ (*Al-Jazeera*, 4 November 2023) <<https://www.aljazeera.com/news/2023/11/4/israeli-strikes-target-schools-hospitals-mosques-on-gaza>>.

110 Save the Children, ‘Gaza: The Rate of Attacks on Healthcare’ (*Save the Children*, 22 April 2024) <<https://www.savethechildren.net/news/gaza-rate-attacks-healthcare-higher-any-other-conflict-globally-2018>>.

111 United Nations, ‘Gaza war: ‘Intense ground battles’ reported, hospital hit kills five’ (*Reliefweb*, 3 January 2024) <<https://reliefweb.int/report/occupied-palestinian-territory/gaza-war-intense-ground-battles-reported-hospital-hit-kills-five>>.

112 Quds News Network, ‘A documented Israeli war crime’ (*QNN*, 16 December 2023) <<https://2u.pw/80AHG1l9>>.



reported that “several people were killed during the incident, including individuals who were initially injured and did not ultimately survive.”<sup>113</sup> Furthermore, on 2 March 2024, “tents housing IDPs and people gathered in front of Al Emirati field hospital in the Tal as-Sultan area of Rafah were hit,” killing 11 Palestinians and injuring 50.<sup>114</sup> Other attacks include the strikes on Al-Shifa Hospital on 13 November 2023, directly landing on an area of the hospital where IDPs were sheltering.<sup>115</sup> A UN humanitarian assessment team led by the WHO that visited Al-Shifa hospital following the attacks noted seeing a mass grave at the entrance, and described the facility as a “death zone.”<sup>116</sup> Consequently, Israel has turned hospitals into graveyards, with the ongoing discovery of over 400 bodies in mass graves following Israel’s withdrawal from Al-Shifa Hospital and Nasser Medical Complex in April.<sup>117</sup>

Targeted attacks have extended to areas Israel designated as “safe zones,” such as Rafah. Initially housing 250,000 Palestinians, Rafah now shelters 1.4 million,<sup>118</sup> the majority of whom are IDPs, after Israel directed “evacuations” there. Despite its “safe zone” status, Rafah continues to be repeatedly bombarded. As of February, Israel has conducted “290 air or drone strikes in the Rafah administrative area, resulting in at least 2,110 casualties.”<sup>119</sup> This includes an Israeli missile strike on 3 December 2023, two days after instructing Palestinians to “evacuate” there, killing 17 Palestinians.<sup>120</sup> In February, Israel escalated aerial attacks and threatened a ground invasion, posing a grave risk to more than half of Gaza’s population currently sheltering in Rafah.<sup>121</sup> Other attacks against purported “safe zones” encompassed Deir El-Balah and Al-Mawasi.<sup>122</sup> The latter, specifically designated a “humanitarian area”, witnessed several strikes targeting the tents of displaced Palestinians.<sup>123</sup> Attacking designated “safe zones”, as well as directing people to these areas before and following attacks, is a death trap to Palestinians that serves as testament to Israel’s genocidal intent.

This systematic strategy of attacking places known to harbor displaced individuals, as well as areas it specifically instructed them to evacuate to, constitutes a calculated form of physical destruction aimed at displaced Palestinians. Not only does Israel force individuals to abandon their homes (under the threat of bombardment) but it also launches deliberate assaults on the roads they use to flee and the very spaces where this vulnerable population seeks refuge. It is crucial to emphasize that Israel does not commit these crimes ambiguously or aimlessly, it is

---

113 Euro-Med Human Rights Monitor, ‘Israeli tanks have deliberately run over dozens of Palestinian civilians alive’ (*Euro-Med Human Rights Monitor*, 4 March 2024) <<https://2u.pw/HAszvTYw>>.

114 OCHA, ‘Hostilities in the Gaza Strip and Israel | Flash Update #131’ (*OCHA* oPt, 4 March 2024) <<https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-131>>.

115 Katie Polglas and others, ‘How Gaza’s hospitals became battlegrounds’ (*CNN*, 12 January 2024) <<https://edition.cnn.com/interactive/2024/01/middleeast/gaza-hospitals-destruction-investigation-intl-cmd/>>.

116 WHO, ‘WHO leads very high-risk joint humanitarian mission to Al-Shifa Hospital’ (*WHO*, 19 November 2024) <<https://2h.ae/SyOr>>.

117 Jason Kao and Raeedah Wahid, ‘Map: Over 400 Bodies Found in Gaza Mass Graves Add to Israel-Hamas Death Toll’ (*Bloomberg*, 26 April 2024) <<https://www.bloomberg.com/graphics/2024-gaza-hospital-mass-graves/?srnd=politics-vp>>.

118 United Nations, ‘Gazans ‘stalked by hunger, disease and death’, warns UN’s top aid official’ (*UN*, 8 February 2024) <<https://news.un.org/en/story/2024/02/1146347>>.

119 Allyson Horn and ABC Staff in Gaza, ‘Rafah was supposed to be Gaza’s “safe zone”’ (*ABC News*, 15 February 2024) <<https://www.abc.net.au/news/2024-02-16/rafah-civilians-flee-before-israel-ground-invasion-gaza/103469364>>.

120 Jake Tacch, ‘Israel struck some areas it directed civilians to in Gaza’ (*CNN*, 21 December 2023) <<https://edition.cnn.com/2023/12/21/middleeast/israel-strikes-evacuation-zones-gaza-intl-cmd/index.html>>.

121 Helen Regan, Catherine Nicholls, Niamh Kennedy and Michael Rios, ‘Israeli strikes deepen panic in Rafah’ (*CNN*, 14 February 2024) <<https://2u.pw/mZTZh40>>.

122 Linah Alsaafin and Brian Osgood, ‘UN Human Rights Office: Israeli attacks placing civilians at serious risk in Deir el-Balah’ (*Al-Jazeera*, 10 January 2024) <<https://www.aljazeera.com/news/liveblog/2024/1/10/israels-war-on-gaza-us-laments-gaza-deaths-but-opposes-ceasefire?update=2609316>>.

123 See: UN Human Rights Office in Occupied Palestinian Territory, ‘Khan Younis escalation poses a risk of possible spillover into Rafah’ (*Reliefweb*, 24 January 2024) <<https://2u.pw/dSxzt6dX>>; Ali Harb and Brian Osgood, ‘My daughter’s gone’: Survivor recounts Israeli attack on “safe area”’ (*Al-Jazeera*, 23 January 2024) <<https://2u.pw/kujgxQbG>>.

fully aware that its actions result in the death or injury of IDPs when it targets these locations, particularly when they are the very areas it instructed IDPs to go. Israel's so-called "evacuation orders" for the safety of the population are nothing but deceitful tactics that contribute to additional killing of Palestinians. These attacks ultimately establish the *mens rea* element, proving that Israel is deliberately engaging in actions against IDPs that lead to their harm and destruction.

### 4.3. Establishing *Actus Reus* : Acts Accompanying the Mass Forcible Displacement in the Gaza Strip

As provided in section 2, to satisfy the actus reus under Article 2(c) of the GC, acts must ultimately seek to physically destroy members of the group, i.e. lead to their slow death. The following subsections establish the actus reus element by exploring the "conditions of life", designated below as "acts", surrounding the forced displacement in Gaza. This involves examining the intent inferred from Israel's actions, the impact on displaced Palestinians, and the overall context in which the forced displacement occurs. By scrutinizing these acts, the subsection provides a comprehensive understanding of the legal implications of the forced displacement in Gaza as a component of the ongoing genocide.

#### 4.3.1. Act 1: *The Denial of Adequate Shelter*

As Israel began issuing its "evacuation orders," thereby prompting the mass forced displacement of Palestinians in Gaza, it had instructed people to head to "safe zones" that lack adequate shelter and the basic needs for survival. OCHA reported that among the 1.7 million IDPs in Gaza, nearly 1 million are currently seeking refuge in approximately 450 emergency shelters, including those provided by UNRWA and public facilities, "or in the vicinity of UNRWA shelters and distribution centers." Additionally, around 1.3 million individuals are residing in tents or self-constructed shelters in makeshift locations that are "ill-suited to weather conditions, exacerbate protection risks, and fail to provide any sort of privacy or dignity."<sup>124</sup> The average living space at shelter, per IDP, is only one square meter. Sufficient ventilation is lacking in 41% of these shelters, while 57% are susceptible to rain and water infiltration.<sup>125</sup>

Antonio Guterres highlighted the dire situation, stating that "[t]he people of Gaza are being told to move like human pinballs — ricocheting between ever-smaller slivers of the south, without any of the basics for survival." Guterres provided the following about shelters in Gaza:

"Conditions in shelters are overcrowded and unsanitary. People nurse open wounds. Hundreds of people stand in line for hours to use one shower or toilet. Families who have lost everything sleep on bare concrete floors, wearing clothes they have not changed for two months.

Tens of thousands of Palestinians arrived in Rafah in recent days, overwhelming shelters there. Many displaced families — including children, older people, pregnant women and people with disabilities — are sleeping in streets and public spaces across the city."<sup>126</sup>

Rafah, where Israel first ordered Palestinians to go when it issued its "evacuation orders,"

124 OCHA, 'Flash Appeal: Occupied Palestinian Territory' (*OCHA oPt*, 17 April 2024), 8 <[https://www.ochaopt.org/sites/default/files/OPT\\_Flash\\_Appeal\\_2024\\_EN.pdf](https://www.ochaopt.org/sites/default/files/OPT_Flash_Appeal_2024_EN.pdf)>.

125 OCHA (n 66).

126 UN Secretary-General, remarks to the Security Council António Guterres, 'People of Gaza "Being Told to Move Like Human Pinballs"' (UN, 8 December 2023) SG/SM/22076 <<https://2h.ae/yOHj>>.

has become overcrowded with over 1.4 million in an area of 63 km<sup>2</sup>.<sup>127</sup> Doctors without Borders (MSF) reported that Rafah has “a lack of toilets, showers and sewage systems,” with many “struggl[ing] to find clean water for drinking, cooking or washing.”<sup>128</sup> Action Aid reported that the “[o]vercrowding is extreme, with any available space taken up by tents, some of which are home to up to 12 people. Thousands of people are living crammed into increasingly unsanitary shelters, where hundreds of people share a single toilet.”<sup>129</sup> Similarly, Save the Children in Palestine recounted that IDPs in Rafah are living in “makeshift shelters all along the sides of streets, in car parks, next to mosques, next to schools, next to hospitals, wherever they can find space.”<sup>130</sup> A New York Times article, studying satellite images of Rafah relays that from 10 November 2023, shelters in Rafah had become overcrowded, with images showing tents set up in the vicinity of UN shelters. The article also provides that in December, following Israel’s repeated “evacuation orders,” the “number of tents and makeshift structures sharply increased.” By 14 January 2024, the date of the latest images provided in the article, there were an even greater number of tents.<sup>131</sup> In a video posted on 25 April 2024, UNRWA stated that “no one is safe in Rafah and everyone is living in absolute fear,” explaining that “in every direction you look, there are makeshift shelters and most families do not even have tents. They’re simply living under these sheets of scrap plastic, doing everything they can to survive.”<sup>132</sup>

With Rafah now under “evacuation orders”, as Israel prepares to begin a ground invasion on the city, Palestinians are set to be displaced again. The SR on IDPs has stated: “Any evacuation order imposed on Rafah under the current conditions, with the rest of Gaza lying in ruins, would be in flagrant violation of international humanitarian and human rights law, forcing people to flee to conditions of certain death – deprived of food, water, healthcare, and shelter.”<sup>133</sup>

Al-Mawasi, designated by Israel as a “humanitarian zone”, faces similar conditions. Described as having “almost no sheltering capacity”,<sup>134</sup> the area is an expanse of farmland and sand dunes that is “largely barren and lacks basic utilities and infrastructure, including roads, water and sewage systems, and health facilities.”<sup>135</sup> According to the New Humanitarian, IDPs in Al-Mawasi have set up makeshift shelters that “do little to shelter them from cold winter temperatures and rain.” Palestinians displaced there report scarcity of food and clean drinking water. Additionally, the area is difficult to reach for aid agencies, and aid deliveries are reported to be few and infrequent. One IDP sheltering in Al-Mawasi stated: “Our life carries only its name. It is closer to death, torture, and hell than it is to life. We escaped death by shelling only

127 Norwegian Refugee Council (NRC), ‘Gaza: Israel’s military operation in Rafah would be fatal for displaced civilians and humanitarian aid’ (NRC, 8 February 2024) <<https://www.nrc.no/news/2024/february/gaza-israels-military-operation-in-rafah-would-be-fatal-for-displaced-civilians-and-humanitarian-aid/>>.

128 Doctors Without Borders (MSF), ‘Gaza: MSF teams working to deliver safe water as disease risk rises’ (MSF, 8 February 2024) <<https://msf.org.uk/article/gaza-msf-teams-working-deliver-safe-water-disease-risk-rises>>.

129 Action Aid, ‘Intensifying attacks in Rafah would have disastrous consequences’ (Action Aid, 9 February 2024) <<https://actionaid.org/news/2024/intensifying-attacks-rafah-would-have-disastrous-consequences-actionaid-warns-people>>.

130 Jason Lee as cited in: Linah Alsaafin, Tamila Varshalomidze and Brian Osgood, ‘Civilians in Gaza moved around like chess pieces’ (Al-Jazeera, 8 February 2024) <<https://www.aljazeera.com/news/liveblog/2024/2/8/israels-war-on-gaza-live-us-says-space-for-truce-deal-israel-vows-war>>.

131 Leanne Abraham and Zach Levitt, ‘See the Rapid Expansion of Tent Camps in Southern Gaza’ (New York Times, 18 January 2024) <<https://www.nytimes.com/interactive/2024/01/18/world/middleeast/gaza-displaced-tent-camps-rafah.html>>.

132 Louise Wateridge in a video via X, ‘It’s difficult to convey the scale of the humanitarian situation in Rafah’ (UNRWA on X, 25 April 2024) <<https://twitter.com/UNRWA/status/1783483828574597169>>.

133 Gaviria Betancur (n 95).

134 OCHA, ‘Hostilities in the Gaza Strip and Israel | Flash Update #20’ (OCHA oPt, 26 October 2023) <<https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-20>>.

135 Mohamed Soulaïmane, ‘Inside Gaza’s supposed ‘safe zone’, where displaced Palestinians struggle for survival’ (The New Humanitarian, 11 January 2024) <[Inside Gaza’s supposed ‘safe zone’, where displaced Palestinians struggle for survival](https://www.thenewhumanitarian.org/Inside-Gaza-s-supposed-safe-zone-where-displaced-Palestinians-struggle-for-survival)>.

to die alive here in al-Mawasi.”<sup>136</sup> Israel’s directives for Palestinians to move to Al-Mawasi is not only a violation of the Occupying Power’s responsibility to provide adequate shelter under IHL, but it also amounts to the direct imposition of conditions of slow death.

Ultimately, the places which Israel has directed Palestinians to “evacuate” to are not safer than their homes; in fact, they are often more dangerous, subjecting displaced Palestinians to both bombardment and living conditions that lack the basic necessities for survival. The absence of adequate shelter has created conditions conducive to slow death, as IDPs continue to indefinitely endure unsanitary living conditions, overcrowding, and makeshift shelters. **These conditions are not collateral damage; they are the direct, expected, and intended consequences of Israel’s actions. By forcibly displacing Palestinians without ensuring adequate shelters or providing basic necessities, Israel has created conditions that constitute an act of genocide under Article 2(c) of the GC.**

#### *4.3.2. Act 2: Infliction of Deadly Health Conditions*

Over the span of 7 months, Israel has destroyed Gaza’s healthcare system, bombing hospitals and ambulances, and obstructing the entrance of medical equipment. Fatal health conditions are exacerbated for Palestinian IDPs due to overcrowded and inadequate shelters. According to UNRWA, as of January, the number of internally displaced persons in Gaza had surpassed the Agency’s pre-crisis emergency response plan, which called for the housing 150,000 IDPs across 75 shelters, with 2000 Palestinians per shelter. The Agency states that, instead, “there is an average of 18,000 registered internally displaced people per shelter, stretching resources and health and sanitary conditions beyond their limits.”<sup>137</sup> On 21 December 2023, WHO provided that, of the total displaced in Gaza, 1.4 million have sought refuge in overcrowded shelters, facing conditions described as “ripe for a continued rise in infectious diseases.” On these conditions, WHO also stated:

“In Gaza today, on average, there is only one shower for every 4500 people and one toilet for every 220. Clean water remains scarce and there are rising levels of outdoor defecation. These conditions make the spread of infectious diseases inevitable. [...] With the health system on its knees, those facing the deadly combination of hunger and disease are left with few options. The people of Gaza, who have already suffered enough, now face death from starvation and diseases that could be easily treated with a functioning health system.”<sup>138</sup>

The Norwegian Refugee Council (NRC) reported in February that its “assessment of nine shelters hosting 27,400 civilians in Rafah found that people had no drinking water, showers, or personal hygiene items. The shelters operated at 150 per cent capacity as hundreds of displaced people spent the night on the street. Diseases, including hepatitis A, gastroenteritis, diarrhoea, lice and influenza were reported in every location assessed.”<sup>139</sup> UNRWA’s report on the health situation in Gaza provides that IDPs in its shelters only “have access to roughly half the daily minimum amount of drinking water required for survival.” This has led to an increase in waterborne diseases as Palestinians have resorted to drinking from unsafe water sources. The Agency reported that lack of proper sanitation along with inadequate access to clean water “further exacerbates the spread

---

136 *ibid.*

137 Ghada Al-Jadba and others, ‘UNRWA at the Frontlines: Managing Health Care in Gaza during Catastrophe’ (2024) 403(10428) *The Lancet* 723 <[https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(24\)00230-7/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(24)00230-7/fulltext)>.

138 WHO Media Team, ‘Lethal combination of hunger and disease,’ (*WHO*, 21 December 2023). <<https://www.who.int/news/item/21-12-2023-lethal-combination-of-hunger-and-disease-to-lead-to-more-deaths-in-gaza>>.

139 NRC ‘Gaza: Israel’s military operation in Rafah would be fatal for displaced civilians and humanitarian aid’ (NRC, 8 February 2024) <[Lethal combination of hunger and disease to lead to more deaths in Gaza](#)>.

of disease among an already vulnerable population.” UNRWA also found that after monitoring 14 diseases since 16 October 2023 there has been a significant rise in disease cases within its shelters, compared to the previous year. Notably, there has been a substantial rise in cases of non-bloody and bloody diarrhea, and impetigo, emphasizing the urgency of the situation within the shelters. It found that between 23 October to 31 December 2023, the incidence of non-bloody diarrhea surged by 33-fold among children under 5 and by 99-fold among those aged 5 and older compared to the same period in 2022.<sup>140</sup> On 20 December, OCHA reported that “360,000 cases of infectious diseases, including acute respiratory infections, meningitis, jaundice, impetigo, and chickenpox, have been recorded in UNRWA shelters.”<sup>141</sup>

The existence and increase of these diseases can be attributed to Israel’s actions: forcibly herding Palestinians into confined and inadequate areas, with no consideration for the provision of their basic needs to stay healthy, let alone to survive. It is crucial to note that the spread of disease amongst the people of Gaza is not a simple byproduct of Israel’s assaults, but has been acknowledged and employed as a direct strategy to facilitate the destruction of the Palestinian group with explicit knowledge of the consequences. For example, former head of the Israeli National Security Council and current advisor to the Defence Minister, Giora Eiland, published a column in the newspaper Yedioth Ahronoth, stating that:

“The international community warns us of a humanitarian disaster in Gaza and of severe epidemics. We must not shy away from this [...] After all, severe epidemics in the south of the Gaza Strip will bring victory closer and reduce casualties among IDF soldiers. When senior Israeli figures say in the media ‘It’s either us or them’ we should clarify the question of who is ‘them’. ‘They’ are not only Hamas fighters with weapons, but also all the ‘civilian’ officials, including hospital administrators and school administrators, and also the entire Gaza population.”<sup>142</sup>

To compound this situation, most of these diseases are treatable, however, Gaza’s crippled and overwhelmed healthcare system struggles to provide even the most basic treatment. As the SR on the right to health, Dr. Tlaleng Mofokeng, provided:

“[T]he health system in Gaza has been completely obliterated and the right to health has been decimated at every level. The conditions are incompatible with the realization of everyone to the highest attainable standard of physical and mental health.”<sup>143</sup>

Gaza’s largest hospital, Al-Shifa, has been targeted relentlessly since the beginning of the genocide, “leaving it in ruins and completely out of service. The hospital’s main surgery building, its intensive care unit, and emergency, general surgery, and orthopaedic departments have all been destroyed.”<sup>144</sup> As of 26 April 2024, 80 percent of primary health care facilities in Gaza are non-functional, 25 hospitals are out of service, with only 11 hospitals partially functional and 6 field hospitals operating. Furthermore, only 8 out of 24 UNRWA health facilities in Gaza are

---

140 Al-Jadba (n 137) 723.

141 OCHA, ‘Hostilities in the Gaza Strip and Israel | Flash Update #74’ (OCHA *oPt*, 20 December 2024) <<https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-74>>.

142 Full translation of Giora Eiland’s column in Yedioth Ahronot on X (X, 19 November 2023) <<https://twitter.com/TalulaSha/status/1726267178201362438>>.

143 Dr. Tlaleng Mofokeng, UN Special Rapporteur on the right to health, as cited in “A war on the right to health” – UN expert raised concern about Gazans mental health due to conflict’ (UNISPAL, 22 April 2024) <<https://2h.ae/Iruk>>.

144 Medical Aid for Palestinians (MAP), ‘The destruction of Shifa Hospital’ (MAP, 2 April 2024) <<https://www.map.org.uk/news/archive/post/1576-the-destruction-of-shifa-hospital-is-latest-evidence-of-israelas-systematic-dismantling-of-gazaas-health-system>>.



operational.<sup>145</sup> Israel's attacks on Gaza's healthcare system effectively condemn ill Palestinians to death and ensure that many others will also become ill and eventually suffer the same fate.

Lack of proper shelter in the winter months has especially magnified the health crisis in Gaza. A displaced Palestinian in Gaza recounted to the Guardian: "There's no food, no water, no heating. We are dying from the cold."<sup>146</sup> An article by CARE International vividly depicted the dire situation in shelters, labeling it as a "living nightmare." The lack of winter clothing, blankets, and adequate protection for vulnerable groups like children, pregnant women, and the elderly was emphasized, as many have set-up makeshift shelters and tents in Gaza. The article also highlighted the unsanitary conditions, including muddy floors, insufficient water supply, and inadequate toilet facilities, exacerbating health risks such as diarrhea. CARE further stated:

"This is a bad time of the year to have to live on the street or in substandard housing. The nights are cold, and it is raining. Children walk around in sandals and ripped shirts. The worsening shelter conditions, scarce fuel supply, and the use of hazardous materials for warmth are leading to serious health and environmental consequences."

CARE International had fittingly named the article: "People in Gaza suffer "slow death" even when surviving the bombs."<sup>147</sup>

In November, Oxfam reported that its partner organization Juzoor, which operates in northern Gaza providing aid to pregnant women in 13 shelters, had stated that each shelter witnessed at least one newborn fatality in the past month due to preventable causes. Juzoor's doctors observed a 25-30 percent increase in premature births attributed to the stress and trauma faced by pregnant women from bombs, walking long distances and enduring squalid shelter conditions. Particularly in northern Gaza, cases of placenta abruption, a life-threatening condition during childbirth, had increased two-fold. Additionally, it was reported that newborns up to three months old were succumbing to diarrhea, hypothermia, dehydration, and infection due to the dire living conditions lacking essential medical support, water, sanitation, heat, or food.<sup>148</sup> There was no definitive count of the total fatalities that had resulted from diseases and exposure to cold amid the genocide. However, deaths from hypothermia included two infants, which the Ministry of Health announced after a winter storm in January.<sup>149</sup>

As temperatures increase, IDPs are now grappling with the deadly effects of a heatwave compounded by water scarcity and inadequate living situations in tents and overcrowded shelters. There have already been reports of displaced Palestinians dying from heatstroke, with Philippe Lazzarini, UNRWA's Commissioner-General reporting "that at least two children died due to the heat" on 26 April 2024.<sup>150</sup>

Displaced pregnant women are particularly vulnerable, with lack of proper access to medical services and being forced to give birth in deplorable health conditions. In November 2023, WHO estimated that there are about 50,000 pregnant women in Gaza, with more than 180 giving birth per day. Additionally, approximately 15 percent of these pregnant women were

---

145 OCHA (n 66).

146 Jason Burke, 'Aid officials believe there are 'pockets of famine' in Gaza' (*The Guardian*, 16 January 2024) <<https://www.theguardian.com/world/2024/jan/16/no-food-no-water-no-heating-famine-exists-in-gaza-say-officials>>.

147 CARE International, 'People in Gaza suffer "slow death" even when surviving the bombs' (*CARE*, 31 January 2024) <<https://www.care-international.org/news/people-gaza-suffer-slow-death-even-when-surviving-bombs>>.

148 Oxfam, 'Babies dying from preventable causes in besieged Gaza' (*Oxfam*, 23 November 2023) <<https://www.oxfam.org/en/press-releases/babies-dying-preventable-causes-besieged-gaza-oxfam>>.

149 OCHA, 'Winter weather results in casualties' (*OCHA* oPt, 31 January 2024) <<https://www.ochaopt.org/content/winter-weather-results-casualties-flooding-and-additional-displacement-gaza-strip>>.

150 Philippe Lazzarini, 'Over the past few days' (X, 16 April 2024) <<https://twitter.com/UNLazzarini/status/1783919502431776846>>.

reported to likely experience pregnancy or birth-related complications, and need additional medical care, which they do not have access to when being subjected to forced displacement,<sup>151</sup> along with the compounded dire conditions engineered by Israel. MSF recounted the situation of a displaced woman in Gaza who was turned away from a hospital due to full delivery rooms, and eventually “gave birth to her deceased son in a public bathroom.” MSF provides that pregnant women in Gaza are left without vital medical check-ups for months, as basic healthcare services are scarce and hospitals have limited capacity, with women in labor struggling to reach hospitals due to fuel shortages. Furthermore, displaced women are forced to give birth in inadequate conditions, often returning to makeshift shelters soon after cesarean deliveries. MSF emphasized that in dire living conditions where access to healthcare, food, and shelter is limited, the likelihood of health issues, including infections, for pregnant women and their children increases.<sup>152</sup>

**Fatal health conditions are not an unforeseen consequence of mass forced displacement; rather, they are the predictable outcome of cramming the majority of Gaza’s population into the southern region and dismantling its healthcare system.** Despite numerous warnings from humanitarian organizations, Israel proceeded with its “evacuation orders”, displaying a clear intent to physically destroy the Palestinian population. **For 7 months, Israel has continued to forcibly displace Palestinians to overcrowded and inadequate locations, and persisted in its attacks on hospitals and the healthcare system and the obstruction of medical equipment and humanitarian aid. As expected, the mass displacement of Palestinians in the north, coupled with inadequate shelter and healthcare and extreme weather conditions, has led to deadly living and health conditions.** These actions blatantly violate the Genocide Convention by imposing life-threatening conditions intended to physically destroy a group.

#### *4.3.3. Act 3: Obstruction of Humanitarian Aid and Starvation*

From the onset of Israel’s genocidal war and Gallant’s call for a full siege on the Gaza Strip, Palestinians have been forced to grapple with severe lack of food and water. Israel has and continues to restrict the provision of humanitarian aid through the border crossings into Gaza, leading to rising levels of food insecurity. At the Security Council meeting on 27 February, various states stated that Israel is using starvation as a “method of warfare.” Senior UN officials warned that those in the north of Gaza are “one step away from famine”.<sup>153</sup> The Director of Coordination at OCHA had stated that there have been “overwhelming obstacles just to get a bare minimum of supplies into Gaza,” stressing that “[i]f nothing is done [...] widespread famine in Gaza is almost inevitable.”<sup>154</sup> In its 25 March 2024 assessment, the Integrated Food Security Phase Classification (IPC) reported that: **zero Palestinians in Gaza have food security** (IPC Phase 1); 96,000 are facing stressed levels of food insecurity; 578,000 are facing crisis levels of food insecurity (IPC Phase 3); 876,000 are experiencing emergency levels of food insecurity (IPC Phase 4); and 677,000 are facing catastrophic food insecurity (IPC Phase 5). In its projection for 16 March - 15 July 2024, it calculates that zero Palestinians in the Gaza Strip will be in Phase 1-3, 854,000 will be in Phase 4, and 1,107,000 will be in Phase 5. The report highlights that “[f]amine is imminent in the northern governorates

151 WHO, ‘Women and newborns bearing the brunt of the conflict in Gaza, UN agencies warn’ (WHO, 3 November 2023) <<https://www.who.int/news/item/03-11-2023-women-and-newborns-bearing-the-brunt-of-the-conflict-in-gaza-un-agencies-warn>>.

152 MSF, ‘Displaced pregnant women at high risk amid dire conditions in Rafah’ (MSF, 29 January 2024) <<https://www.msf.org/gaza-displaced-pregnant-women-high-risk-amid-dire-conditions-rafah>>.

153 UNSC (n 69).

154 Ramesh Rajasingham, Director of OCHA Coordination Division, ‘Mr. Ramesh Rajasingham, director of OCHA Coordination Division, on behalf of Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Mr. Martin Griffiths’ (OCHA oPt, 27 February 2024) <<https://2h.ae/MZCK>>.

and projected to occur anytime between mid-March and May 2024.” Additionally, it provides that nearly all households are forgoing meals daily, with adults sacrificing meals to ensure children eat. It states that in the north, “in nearly two thirds of the households, people went entire days and nights without eating at least 10 times in the last 30 days. In the southern governorates, this applies to one third of the households.”<sup>155</sup> Oxfam reported that since January, Palestinians in the north “have been forced to survive on an average of 245 calories a day,” amounting to less than 12 percent of the recommended daily calorie needs.<sup>156</sup> As a result of food insecurity, Palestinians, particularly in the north, have resorted to eating animal fodder and wild food.<sup>157</sup> Furthermore, there have been 32 reported deaths from malnutrition and dehydration as a result of the food/water crisis caused by Israel.<sup>158</sup> However, this number represents only documented cases, with the true extent likely underestimated due to Gaza's collapsed and overwhelmed healthcare system that is unable to document cases properly.

As explained in previous sections, Israel has directed IDPs to locations that are overcrowded and lack the basic necessities for survival. Designated “safe zones” like Al-Mawasi, that many have sought shelter in and Israel continues to direct people to, are difficult to access by humanitarian organizations and lack food and sources of nutrition. Salah Al-Astal, head of Al-Fajr Palestinian Youth Association in Gaza, informed the New Humanitarian that children in Al-Mawasi often endure entire days without any food, leading to malnourishment. He also highlighted the lack of assistance available to IDPs in Al-Mawasi compared to those in shelters in Rafah, attributing this disparity to the absence of civil society organizations in the area.<sup>159</sup> Chris Lockyear, MSF International Secretary, following his March visit to Gaza, indicated an increase in malnutrition rates in the south. He remarked that the primary healthcare center in Al-Mawasi was treating 70 patients through its outpatient feeding program, noting that these numbers were increasing daily.<sup>160</sup> While Israel is obstructing the entrance of humanitarian aid into the Strip and starving the entire population of Gaza, it further exacerbates these conditions for IDPs by directing them to places with no food and little humanitarian access. This is the direct and deliberate imposition of conditions calculated to bring about the destruction of the group.

According to the World Food Programme's (WFP) most recent assessment on food security for IDPs in Gaza, published on 14 December 2023, 93 percent of IDP households reported having “inadequate food consumption.” Additionally, 96 percent of IDP households recounted “using extreme levels of consumption-based coping strategies.”<sup>161</sup> These numbers have likely increased as Israel continues to obstruct humanitarian aid into Gaza, and subsequently, magnified the food crisis.

The March report of the Global Nutrition Cluster revealed that, according to assessments conducted by a local organization in shelters in the north of Gaza, almost 31 percent of children aged 6-23 months are suffering from acute malnutrition. Meanwhile, in the south,

---

155 Integrated Food Security Phase Classification (IPC), ‘IPC Global Initiative - Special Brief’ (IPC, 18 March 2024), 1-2 <<https://www.ipcinfo.org/ipc-country-analysis/details-map/en/c/1156872/>>.

156 Oxfam, ‘People in northern Gaza forced to survive on 245 calories a day, less than a can of beans’ (Oxfam, 3 April 2023) <<https://www.oxfam.org/en/press-releases/people-northern-gaza-forced-survive-245-calories-day-less-can-beans-oxfam>>.

157 OCHA, ‘Humanitarian Needs and Response Update | 27 February - 4 March 2024’ (Reliefweb, 5 March 2024) <<https://reliefweb.int/report/occupied-palestinian-territory/humanitarian-needs-and-response-update-27-february-4-march-2024>>.

158 Human Rights Watch (HRW), ‘Gaza: Israel’s Imposed Starvation Deadly for Children’ (HRW, 2 April 2024) <<https://www.hrw.org/news/2024/04/09/gaza-israels-imposed-starvation-deadly-children>>.

159 Mohamed Soulaïmane, ‘Inside Gaza’s supposed ‘safe zone’, where displaced Palestinians struggle for survival’ (The New Humanitarian, 11 January 2024) <<https://2h.ae/SBPD>>.

160 MSF, ‘Four direct MSF experiences’ (MSF, 8 April 2024) <<https://www.doctorswithoutborders.ca/four-direct-msf-experiences-that-make-us-deeply-concerned-about-the-nutrition-crisis-in-gaza/>>.

161 World Food Programme (WFP), ‘Food Security Update: For Internally Displaced Populations in Southern Gaza Strip’ (WFP, 14 December 2023) <<https://docs.wfp.org/api/documents/WFP-0000155014/download/>>.



based on assessments in both shelters and health facilities, where humanitarian aid is scarce in governorates such as Deir al Balah, Khan Younis, and Rafah, acute malnutrition rates among children aged 6–23 months range from 5.75 percent to 6.20 percent. Before the onset of the genocide, malnutrition rates stood at 0.8 percent.<sup>162</sup>

On the effects of malnutrition, WHO stated:

“Malnutrition makes people more vulnerable to getting severely ill, experiencing slow recovery, or dying when they are infected with a disease. The long-term effects of malnutrition, low consumption of nutrient-rich foods, repeated infections, and lack of hygiene and sanitation services slow children’s overall growth. **This compromises the health and well-being of an entire future generation.**”<sup>163</sup>

Save the Children also underscored the devastating impacts this “man-made catastrophe” is causing in children, warning of “potentially deadly and life-altering consequences.” It was stressed that children who manage to survive the bombings but are subjected to starvation will likely face stunted growth and irreversible damage to both their physical health and cognitive development.<sup>164</sup>

Doctors in Gaza are already witnessing the consequences of Israel’s starvation policy on IDPs, especially infants and children. Following a visit to a hospital in Rafah, Dominic Allen, a representative for the UN Population Fund Palestine, relayed that “doctors are reporting that they no longer see normal-sized babies.” “What they do see though tragically is more stillborn babies and more neonatal deaths.”<sup>165</sup> Through its policy of starvation and its persistent hindrance of aid, Israel is condemning infants to peril before they even enter the world. This systematic deprivation is not only resulting in deaths during childbirth or shortly after due to malnutrition but is also ensuring that surviving Palestinians are subjected to stunted growth and a lifetime of enduring health issues. Israel’s imposition of these conditions results in 3 scenarios: infants and children could die immediately or they could die slowly or they could live with long-term health issues. In all three scenarios, these actions are designed to bring about the destruction of a group. Furthermore, Israel is executing these actions with full knowledge and awareness of the consequences as dozens of reports and statements have been issued by medical professionals, humanitarian organizations, and health and UN experts about the repercussions, and others are diligently documenting the evident consequences on the ground.

Israel’s intent to commit genocide via starvation on the displaced Palestinian population is blatant through its continued obstruction of aid, but also through its unwillingness to implement any resolutions brought forth by UN bodies. The UN General Assembly (UNGA) adopted Resolution ES-10/21 on 26 October 2023 calling for “the immediate and unrestricted access of humanitarian aid” into the Gaza Strip.<sup>166</sup> The UN Security Council (UNSC) has adopted three resolutions (Resolutions 2720, 2712, and 2728) emphasizing the importance of providing essential services and humanitarian assistance to the civilian population in Gaza. Resolutions 2720 (2023) and 2712 (2023) both call on “all parties to refrain from depriving the civilian population in the Gaza Strip of basic services and humanitarian assistance

---

162 Global Nutrition Cluster, ‘Nutrition Vulnerability and Situation Analysis in Gaza Updated March 2024’ (*Global Nutrition Cluster*, February 2024), 4 <<https://2h.ae/ojxP>>.

163 Tedros Adhanom Ghebreyesus, WHO Director-General, as cited in ‘Famine in Gaza is imminent, with immediate and long-term health consequences’ (*WHO on X*, 18 March 2024) <<https://twitter.com/WHO/status/1769833966985511074?s=20>>.

164 Hannah Stephenson, as cited in ‘Gaza: Blocking Food Supplies to Gaza Will Have Life-Long Impacts on Children with Malnutrition Rising’ (*Save the Children*, 10 January 2024) <<https://2h.ae/plKU>>.

165 Maziar Motamedi, ‘Babies being born already malnourished in Gaza’ (*Al-Jazeera*, 16 March 2024) <<https://www.aljazeera.com/news/liveblog/2024/3/16/israels-war-on-gaza-live-will-the-netanyahu-government-attack-rafah?update=2775780>>.

166 ES-10/21. Protection of civilians and upholding legal and humanitarian obligations (27 October 2023) UNGA Res A/RES/ES-10/21 <<https://2h.ae/vNtk>>.

indispensable to their survival, consistent with international humanitarian law.”<sup>167</sup> Resolution 2712 calls for humanitarian pauses and corridors to facilitate aid access and urgent action to address the humanitarian crisis.<sup>168</sup> Resolution 2720 further reaffirms the obligations of parties to enable the immediate, safe, and expanded delivery of humanitarian assistance directly to Palestinians in Gaza. It demands the use of all available routes, including border crossings, to ensure the prompt delivery of essential goods and services without diversion. Additionally, Resolution 2720 demands the appointment of a Senior Humanitarian Coordinator to expedite aid delivery, with regular reporting to the Security Council.<sup>169</sup> Building upon these mandates, Resolution 2728 (2024) underscores the urgent need to expand humanitarian assistance across Gaza while reiterating the obligation of parties to remove barriers to aid provision. It reinforces the principles outlined in 2720 and 2712, emphasizing the protection of civilians and the efficient delivery of humanitarian aid to those in need.<sup>170</sup> In its provisional measures, the ICJ called on Israel to “take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by Palestinians in the Gaza Strip.”<sup>171</sup> Israel has blatantly ignored and neglected to implement all the legally binding resolutions and provisions outlined in these mandates. It has, in fact, taken additional actions to infringe upon the rights of Palestinians, depriving them of essential humanitarian aid, basic services and urgent healthcare. The unwillingness to provide humanitarian aid that is needed for the survival of Palestinians in Gaza, as pointed to by these resolutions, is indicative of Israel’s intent to physically destroy Palestinians by way of forced displacement, starvation and illness, in other words by “slow death.”

This humanitarian crisis has been further exacerbated by Israel’s continued attempts to obstruct the operations of UNRWA, the primary provider of aid in Gaza. From the early days of the genocide, following Israel’s issuance of “evacuation order”, UNRWA has been unable to operate in the north of Gaza and provide aid and care to those sheltering in its facilities.<sup>172</sup> The Agency reported that the last time it “was able to deliver food supplies to the area was on 23 January 2024.”<sup>173</sup> Israel has also launched yet another demonization campaign against the UN agency, alleging that 12 UNRWA staff members were involved in the 7 October operations.<sup>174</sup> Soon after, 13 governments, including the United States, United Kingdom, Canada, Japan and Italy announced their suspension of funds to the Agency.<sup>175</sup> This targeting has also manifested materially, as Israel has routinely attacked UNRWA aid distribution centers. On 13 March 2024, Israeli forces attacked an UNRWA food distribution center in Rafah, killing one UNRWA staff member and injuring 22 others. Following the attack, Phillip Lazarrini reported: “Every day, we share the coordinates of all our facilities across the Gaza Strip with parties to the conflict. The Israeli Army received the coordinates including of this facility yesterday.”<sup>176</sup> Possessing precise knowledge of their

---

167 UNSC Res 2720 (22 December 2023) S/RES/2720 < <https://2h.ae/AeGL> > ; UN Security Council Res 2712 (15 November 2023) S/RES/2712 <<https://2h.ae/MHGE>>.

168 *ibid*.

169 UNSC Res 2720 (n 167).

170 UNSC Res 2728 (25 March 2024) S/RES/2728 < <https://2h.ae/dOVa> > .

171 Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (*South Africa v. Israel*)(26 January 2024) ICJ Order, para 80 <<https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-00-en.pdf>>

172 UNRWA (n 77).

173 UNRWA (n 105).

174 Philippe Lazarrini, UNRWA Commissioner-General, ‘Serious Allegations against UNRWA Staff in the Gaza Strip’ (UNRWA, 26 January 2024) <<https://www.unrwa.org/newsroom/official-statements/serious-allegations-against-unrwa-staff-gaza-strip>>.

175 ‘Which countries have cut funding to UNRWA, and why?’ (*Al-Jazeera*, 31 January 2024) <<https://www.aljazeera.com/news/2024/1/28/which-countries-have-cut-funding-to-unrwa-and-why>>.

176 UNRWA, ‘At Least One UNRWA Staff Killed’ (UNRWA, 13 March 2024) <<https://www.unrwa.org/newsroom/official-statements/least-one-unrwa-staff-killed-when-israeli-forces-hit-unrwa-centre-used>>.

locations, Israel's targeting of these facilities is, thus, a deliberate and calculated action. This is detrimental because UNRWA has been providing aid to 2 million Palestinians in Gaza amidst Israel's ongoing genocidal campaign, who rely on UNRWA as a "lifeline", as highlighted by Lazzarini. The Agency currently operates shelters for over a million displaced Palestinians in Gaza and attempts to provide essential services such as food and primary healthcare.<sup>177</sup> Therefore, orchestrating a demonization campaign and deliberately calling for the defunding and replacement of an agency that provides vital aid and healthcare to Palestinians enduring a genocidal campaign is an act that furthers genocide.

**Israel aims to completely destroy both Palestinians in Gaza and the Strip's potential for life far beyond the current genocidal campaign by deliberately targeting natural resources and sources of production.** While the complete scope of the damage in Gaza remains undocumented, satellite imagery analysis spanning from 7 October 2023 to 21 March 2024, reveals that "40-48% of the tree crops in Gaza are probably damaged" and "23% of Gaza's greenhouses completely destroyed."<sup>178</sup> The Food and Agricultural Organization of the United Nations (FAO) reported that, as of 15 February 2024, approximately 42.6 percent of Gaza's cropland and 26.6 percent of greenhouses damaged. Other agricultural damage recorded impacted residential barns (307), broiler farms (235), wells (626) and sheep farms (203).<sup>179</sup> On 26 April, OCHA reported that "60-70% of meat and dairy-producing livestock killed or prematurely slaughtered," and that 83 percent of groundwater wells are non-operational.<sup>180</sup> These targeted attacks on sources of production in Gaza deprive Palestinians of essential means for their survival, in both the short and long-term. With substantial damage to cropland and the majority of livestock killed, Israel has severed avenues of food production and nutrition sources, escalating its campaign of starvation beyond hindering aid and essential goods entry.

Given that, prior to 7 October 2023, over 80 percent of the Palestinian population in the Gaza Strip had been aid-dependent, the obstruction of aid and the operations of organizations providing it, as well as the crippling of sources of production, only exacerbates the vulnerability of an already vulnerable population. **Through these actions, Israel has deliberately engineered starvation and malnutrition, targeting and sentencing the displaced Palestinian population in the Gaza Strip to slow death.** Children, the elderly and pregnant women, constitute an additionally vulnerable group within the overall displaced group. There has been extensive research done on the long-term effects of malnutrition and famine, particularly children and their physical and mental development.<sup>181</sup> This information is readily available to Israel, therefore making it reasonably aware of the devastating and deadly consequences of its policies of starvation and obstruction humanitarian aid on a forcibly displaced population, and these vulnerable groups in particular. Furthermore, adequate shelter and life necessities, like food and water, are obligations of the Occupying Power to those "evacuated," per IHL. **Israel has not only failed to adhere to these obligations, but it has also deliberately starved Palestinians, obstructed the provision of aid into Gaza, shown no willingness to implement UNGA and UNSC resolutions and**

---

177 Philippe Lazzarini, UNRWA Commissioner-General, 'UNRWA's Lifesaving Aid May End Due to Funding Suspension' (*UNRWA*, 27 January 2024) <<https://2h.ac/MkKT>>.

178 Kaamil Ahmed, Damien Gayle and Aseel Mousa, "Ecocide in Gaza": does scale of environmental destruction amount to a war crime? (*The Guardian*, 29 March 2024) <<https://2h.ac/AtPM>>.

179 Food and Agricultural Organization of the United Nations (FAO) 'Overview of the damage to agricultural land' (*FAO*, 28 February 2024) <<https://www.fao.org/geospatial/resources/detail/en/c/1678061/>>.

180 OCHA (n 66).

181 UNICEF, 'Child Malnutrition' (*UNICEF*, May 2023) <<https://data.unicef.org/topic/nutrition/malnutrition/>>; WHO, 'Undernourished and Overlooked: A global nutrition crisis in adolescent girls and women' (*WHO*, March 2023) <<https://www.unicef.org/reports/undernourished-overlooked-nutrition-crisis>>; Kelsey Grey and others, 'Severe malnutrition or famine exposure in childhood and cardiometabolic non-communicable disease later in life: a systematic review' (10 March 2021) 6(3) *BMJ Global Health* <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7949429/>>; UNICEF, 'Poor diets damaging children's health, warns UNICEF' (*UNICEF*, 15 October 2019) <<https://www.unicef.org.uk/press-releases/poor-diets-damaging-childrens-health-warns-unicef/>>.

ICJ provisional measures, and attacked and obstructed the primary agency providing the aid. Such actions directly violate Article 2(c) of the Genocide Convention, as they intentionally impose conditions depriving IDPs of lifesaving services, worsening already perilous nutritional and health conditions.

#### 4.3.4. Act 4: Separation of Families

The separation of families – caused by the killing of members of the family, their deliberate separation as a result of detaining and kidnapping members of the family, and the indirect separation of family members from the chaos that results from internal displacement – attacks the social integrity, and possibly the very survival, of the entire group. Pregnancy rates are likely to decrease with the separation of families, especially with the separation of spouses, the overcrowding of families in tents and shelters, and the psychological impact of displacement and war. These conditions have “direct – and sometimes deadly – consequences on reproductive health, including a rise in stress-induced miscarriages, stillbirths and premature births.”<sup>182</sup>

OCHA has documented cases of individuals being detained and families separated along the Salah Al-Din Road.<sup>183</sup> Israeli forces have routinely arrested Palestinian men by the thousands in Gaza, oftentimes along these “evacuation” routes determined as “safe” by Israeli authorities. There have also been repeated reports of Israeli plans to reject the return of “military-age” men to return to the north of Gaza, a point which Israel has insisted upon in ceasefire negotiations.<sup>184</sup> The Middle East Eye also reported that “Israel is reportedly setting up a complex system of checkpoints that will prevent men of “military age” from fleeing Rafah in preparation for its offensive on the southern Gaza border city”.<sup>185</sup> Israel’s plans will undoubtedly negatively impact family life and prevent family growth, and ultimately show that displacement in the context of Gaza does not entail a mere removal from an area, but has negative material consequences on the social fabric and existence of the Palestinian group. Additionally, according to UNICEF, and as of 2 February 2024, at least 17,000 Palestinian children are estimated to be unaccompanied or separated from their parents.<sup>186</sup>

As explained prior, cases of genocide, and elements like forced displacement, are highly circumstantial in their assessment, especially when considering societal factors that uniquely affect the targeted population. Recalling the Krstic Appeals Chamber, there was significant consideration given to the fact that the disappearance of generations of men would have a devastating impact on the survival of a traditionally patriarchal society, a fact that is no different in the case of Gaza. **The Israeli policy of ongoing displacement, the deliberate separation of families, and the conditions leading to and following displacement, lead to the reasonable expectation that the natural growth and fertility rates of the group will continue to decrease and will in turn detrimentally affect the existence and survival of the group.**

#### 4.3.5. Act 5: Destruction of Homes

---

182 OCHA (n 66).

183 OCHA, ‘Hostilities in the Gaza Strip and Israel | Flash Update #47’ (OCHA *oPt*, 22 November 2023) <<https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-47>>.

184 Léonie Chao-Fong and Maanvi Singh, ‘Joe Biden hopeful of Gaza ceasefire by Monday as details of proposal emerge’ (*The Guardian*, 27 February 2024) <<https://www.theguardian.com/us-news/2024/feb/26/israel-gaza-ceasefire-biden>>; see also Adam Rasgon and Edward Wong ‘Cease-Fire Talks to Confront How Displaced Palestinians Can Return’ (*The New York Times*, 1 April 2024) <<https://www.nytimes.com/2024/04/01/world/middleeast/ceasefire-talks-palestinians.html>>.

185 Sean Mathews, ‘Israel planning ring of checkpoints to prevent men from fleeing Rafah, source says’ (*Middle East Eye*, 29 April 2024) <<https://www.middleeasteye.net/news/exclusive-israel-planning-ring-checkpoints-prevent-men-fleeing-rafah>>.

186 UNICEF (n 67).



On 15 April 2024, UN Special Procedures reported: “Between 60-70% of all homes in Gaza, and up to 84% of homes in northern Gaza, are either fully destroyed or partly damaged.”<sup>187</sup> The World Bank’s March report provided that over 1 million people in Gaza have lost their homes.<sup>188</sup> A map produced by the Washington Post in November presents the extensive damage carried out by Israeli forces in Gaza, which clearly displays that Israel has been intentionally targeting the most densely populated and built-up areas throughout the Gaza Strip.<sup>189</sup> UN SR on adequate housing, Balakrishnan Rajagopal, had provided that this destruction extends to “[a]ll that makes housing ‘adequate’ – access to services, jobs, culture, schools, religious places, universities, hospitals – have all been leveled.”<sup>190</sup> Rajagopal affirmed that the acts committed in Gaza by Israel constitute a “domicide”,<sup>191</sup> a term he previously defined, in his 2022 report to the Human Rights Council, as “the deliberate destruction of homes, the rendering of homes uninhabitable or any other systematic denial of housing when such acts are carried out in violation of international law and committed as part of a widespread or systematic attack against any civilian population.”<sup>192</sup> The UN SR also provided that “domicide” could be a “means to genocide” if enacted “to bring about the physical destruction of the victim group.”<sup>193</sup>

Israel’s actions have further rendered Gaza uninhabitable, leaving the majority of Palestinians homeless. **This displacement has been orchestrated to endure far beyond the duration of Israel’s genocidal war, subjecting IDPs to long-term conditions of physical destruction.** The destruction of homes creates a situation in which shelter will not be available even after the cessation of Israeli bombardment, especially in light of the restriction on delivery of aid, which would include materials to rebuild. A UN expert has reported that every square meter in Gaza “every square [meter] in Gaza impacted by the conflict contains some 200 [kilograms] of rubble”, noting that it will take 14 years to clear away the debris.<sup>194</sup>

In light of the degree of mass displacement in Gaza, the loss of homes will not only create dependency on aid for many years to come, but it will also lead to persistent challenges such as continued lack of adequate shelter, and prolonged exposure to harsh environmental conditions, contributing to the slow death of IDPs. Additionally, because Palestinians have no homes to return to, they will remain internally displaced, thus exacerbating their already dire conditions which have been described in the above sections.

**Mass home demolition and destruction of infrastructure and public facilities are deliberate and systematic attacks aimed at rendering the Strip unlivable beyond a ceasefire. The intentional destruction of homes, and therefore the loss of proper shelter, resulting from Israel's targeting of civilian infrastructure in Gaza, coupled with mass forced and prolonged displacement, clearly violates Article 2(c) by imposing conditions of physical destruction on the civilian population.**

---

187 OHCHR, ‘Gaza: UN experts deplore use of purported AI to commit ‘domicide’ in Gaza, call for reparative approach to rebuilding’ (OHCHR, 15 April 2024) <<https://www.ohchr.org/en/press-releases/2024/04/gaza-un-experts-deplore-use-purported-ai-commit-domicide-gaza-call>>.

188 The World Bank, ‘Joint World Bank, UN Report Assesses Damage to Gaza’s Infrastructure’ (*The World Bank*, 2 April 2024) <<https://2h.ac/zBYJ>>.

189 Júlia Ledur and Janice Kai Chen, ‘Tracking damage within the Gaza Strip through maps’ (*The Washington Post*, 1 November 2023) <<https://www.washingtonpost.com/world/2023/gaza-strip-map-attacks-damage/>>.

190 United Nation, ‘UN rights expert condemns ‘systematic’ war-time mass destruction of homes’ (United Nations Palestine, 6 March 2024) <<https://2h.ac/Kccu>>.

191 OHCHR, ‘Gaza: Destroying civilian housing and infrastructure is an international crime’ (OHCHR, 8 November 2023) <<https://www.ohchr.org/en/press-releases/2023/11/gaza-destroying-civilian-housing-and-infrastructure-international-crime>>.

192 UNGA, ‘Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context’ (19 July 2022) UN Doc A/77/190, para 48 <<https://undocs.org/Home/Mobile?FinalSymbol=A%2F77%2F190&Language=E&DeviceType=Desktop&LangRequested=False>>.

193 *ibid* para 41.

194 UN, ‘Gaza’s unexploded ordnance could take 14 years to clear’ (UN, 26 April 2024) <<https://2h.ac/ttSb>>.

#### **4.4. Forced Displacement in Gaza: The Vulnerability of the Group, the Nature of Imposed Conditions, and the Duration of Exposure**

As provided in section 2, a court may rely on objective probability in cases lacking direct evidence of physical destruction when assessing a violation of Article 2(c). The factors to be considered in this assessment are the “characteristics of the targeted group such as its vulnerability”, the nature of imposed conditions, and the duration group members are exposed to them.

The Gaza population’s vulnerability predates 7 October 2023, as it had endured a 17-year siege where 80 percent relied on humanitarian aid. With the ongoing mass forced displacement, vulnerability has intensified, notably with 1.7 million Palestinians displaced. IDPs are an inherently vulnerable group, however, in Gaza, this vulnerability is compounded by the fact that 850,000 of IDPs in Gaza are children,<sup>195</sup> an additionally vulnerable demographic.

Regarding the nature of imposed conditions, mandating the “evacuation” of 1.1 million Palestinians from the north to the south of Gaza, towards locations lacking adequate shelter, food, water, and healthcare has created a catastrophic situation. Beyond that, Israel has attacked places in which IDPs sought shelter and issued the evacuation of previously designated “safe-zones”, leading to multiple displacements for some and the separation of families. This situation not only falls short of ensuring the safety of the displaced individuals, but also deliberately inflicts deadly conditions on IDPs, in violation of Article 2(c) of the Genocide Convention. Those displaced are currently facing starvation – and in the long-term, the loss of the ability to produce their basic needs due to the destruction of the agricultural system – alongside hazardous health conditions produced from inadequate, overcrowded and/or informal shelters. Additionally, they are denied return to their homes, with many also having had their homes destroyed and left indefinitely homeless. IDPs are not dealing with homelessness, health hazards, and starvation individually; they are experiencing these challenges in tandem, compounded by their displacement. These factors, when taken in their totality, provide objective probability of long-term suffering, slow death and physical destruction.

These genocidal conditions have been imposed for over 7 months, however, even in the event of a ceasefire, IDPs are set to experience lack of shelter, food, and proper sanitation long-term. Israel’s ongoing destruction of homes, infrastructure, and the healthcare system, along with its attacks on shelters and aid distribution convoys will have enduring consequences, contributing to the slow death of Palestinians in Gaza for years to come.

---

195 UNICEF, ‘State of Palestine Appeal’ (UNICEF, February 2024) <<https://www.unicef.org/appeals/state-of-palestine>>.

## 5. Conclusion

Approximately 81 percent of the population in Gaza are refugees, descending from Palestinians dispossessed and displaced in the Nakba, subjected to a brutal siege for 17 years. Over 76 years after the Nakba, Gaza is witnessing significant displacement *en masse*, marking one of the largest displacements since 1948. When considering the genocide in Gaza, it is important to note that it is not an isolated event but rather a component of the ongoing Nakba, representing a culmination of decades of colonialism, mass killings, apartheid, forced displacement and dispossession.

As assessed throughout this paper, forced displacement is part and parcel of Israel's genocidal campaign in Gaza. Crucially, IDPs in Gaza have not merely been transferred; a large percentage of them have lost their homes, faced targeted attacks while fleeing, are living in shelters and hospitals that are systematically attacked, and deprived of humanitarian aid. The above analysis has found that Israel's policy of forced displacement in the Gaza Strip – along with accompanying acts – falls within Article 2(c) of the Genocide Convention. From the **direct targeting of displaced persons on designated “escape routes”, to the deliberate destruction of homes, separation of families, and the infliction of deadly health conditions and starvation, the orchestrated actions by Israel reveal a calculated aim to physically destroy Palestinians in Gaza.** These are direct conditions that can, in the long term, lead to death of those affected; in other words: conditions of “slow death”. It is paramount to consider that forced displacement and its associated actions affect a significant portion, 75 percent, of Gaza's population. Israel's purported evacuation orders are not proportionate and do not provide safety; instead, they have deliberately led to forced displacement, affecting the majority of the population and actively leading to conditions aimed at physically destroying them.

The specific intent behind the forced displacement and population transfer of the Palestinian population in Gaza becomes apparent when considering Israel's full awareness of the foreseeable consequences, including overcrowding in shelters and starvation, of ordering the evacuation of over half of Gaza's population. Israel had to have been aware of such consequences, having been warned by organizations about prospective ramifications, and still advanced with its directive of forced displacement *en masse*. Targeting Palestinians during their evacuation, attacking designated safe routes, and even the very shelters they seek safety in, all done with full knowledge and awareness, signify a clear intent to physically destroy the group. Israel's forced displacement, along with accompanying conditions, is therefore a direct violation of Article 2(c) of the Genocide Convention.

The ongoing case against Israel at the ICJ, spearheaded by South Africa, stands to hold Israel accountable in this regard. As the first case confronting Israeli conduct in Gaza, it is part of a bigger effort to dismantle structures of oppression and attain accountability for Palestinians. Furthermore, to prosecute Israel for genocide is to confront the foundational pillars of the Israeli colonial-apartheid regime, predicated on the erasure and elimination of the Palestinian people.

“

Israel’s policy of forced displacement in the Gaza Strip – along with accompanying acts – falls within Article 2(c) of the Genocide Convention. From the direct targeting of displaced persons on designated “escape routes”, to the deliberate destruction of homes, separation of families, and the infliction of deadly health conditions and starvation, the orchestrated actions by Israel reveal a calculated aim to physically destroy Palestinians in Gaza.

”