

RENEWED HOSTILITIES IN GAZA

This legal update is prepared on the basis of information available as of 19 March 2025, 18.00 CET.

Recent developments

On 2 March 2025, the same day the first phase of the ceasefire between Israel and Hamas came to an end, Israel halted the entry of humanitarian aid and commercial supplies into the Gaza Strip.¹ The Israeli government allegedly purported to exert pressure on Hamas to extend the first phase of the ceasefire into April – with further releases of Israeli hostages – instead of proceeding to negotiations over the second phase.² The decision drew widespread condemnation by States as well as the humanitarian and human rights community.³ The United Nations (UN) Humanitarian Coordinator, Muhannad Hadi, called aid ‘a lifeline for over two million Palestinians who have endured unimaginable conditions for many months’ which is ‘indispensable to their survival’.⁴

¹ Cara Anna, ‘Israel Has Cut Off All Supplies to Gaza. Here’s What That Means’ *The Associated Press* (New York, 2 March 2025) <<https://apnews.com/article/gaza-israel-hamas-palestinians-aid-explainer-ecc0e70d5ff1120a04bf36626dfd96f4>> accessed 20 March 2025; ‘Humanitarian Situation Update #271 | Gaza Strip’ (OCHA occupied Palestinian territory (oPt), 11 March 2025) <<https://www.ochaopt.org/content/humanitarian-situation-update-271-gaza-strip>> accessed 20 March 2025; Julia Frankel and Samy Magdy, ‘Israel’s Cutoff of Supplies to Gaza Sends Prices Soaring as Aid Stockpiles Dwindle’ *The Associated Press* (Jerusalem, 5 March 2025) <<https://apnews.com/article/israel-gaza-aid-cutoff-netanyahu-hunger-war-940ceea2c2b754d197a4f07c0cad86de>> accessed 20 March 2025.

² Anna (n 1); Frankel and Magdy (n 1); Joseph Krauss, ‘With the Gaza Ceasefire in Limbo, Israel Tries to Impose an Alternative Plan on Hamas’ *The Associated Press* (New York, 4 March 2025) <<https://apnews.com/article/israel-palestinians-hamas-war-ceasefire-hostages-witkoff-plan-46a639d66772915ba1ed0b43cd2728d8>> accessed 20 March 2025; Joseph Krauss, ‘Why Did Netanyahu End the Gaza Ceasefire?’ *The Associated Press* (New York, 18 March 2025) <<https://apnews.com/article/israel-palestinians-hamas-war-ceasefire-hostages-netanyahu-ff48f081b069e484955a72bc68261364>> accessed 20 March 2025. The ceasefire between Israel and Hamas entered into force on 19 January 2025. For the parties’ continuing obligations under international law with the ceasefire in effect, see ‘Ceasefire in Gaza and Israel: Continuing Legal Obligations’ (*Diakonia IHL Centre*, 23 January 2025) <<https://www.diakonia.se/ihl/news/ceasefire-in-gaza-and-israel-continuing-legal-obligations/>> accessed 20 March 2025. Hostage-taking is absolutely prohibited in all circumstances. Study on Customary IHL by the International Committee of the Red Cross (ICRC) ‘Customary IHL Database’ (ICRC, first published in 2005) (CIHL) r 96.

³ Eg Tia Goldenberg and Samy Magdy, ‘Egypt and Qatar Accuse Israel of Violating Humanitarian Law for Blocking Aid into Gaza’ *The Associated Press* (Tel Aviv, 3 March 2025) <<https://apnews.com/article/israel-palestinians-hamas-war-news-ceasefire-hostages-03-02-2025-99402570996dcf33239d0492d99909e4>> accessed 20 March 2025; Niku Jafarnia, ‘Israel Again Blocks Gaza Aid, Further Risking Lives’ (*Human Rights Watch*, 5 March 2025) <<https://www.hrw.org/news/2025/03/05/israel-again-blocks-gaza-aid-further-risking-lives>> accessed 20 March 2025.

⁴ ‘Statement by the Humanitarian Coordinator, Mr. Muhannad Hadi, on the Halt to the Entry of Humanitarian Supplies into Gaza’ (OCHA oPt, 10 March 2025) <<https://www.ochaopt.org/content/statement-humanitarian-coordinator-mr-muhannad-hadi-halt-entry-humanitarian-supplies-gaza>> accessed 20 March 2025.

One week later, on 9 March, the Israeli government announced that it would cut off the remaining electricity supply to Gaza.⁵ With the Strip ‘under an electricity blackout since October 2023’, this was set to impact the functioning of the South Gaza Desalination Plant, which had been providing clean drinking water to the area.⁶

In the early hours of Tuesday 18 March 2025, almost exactly two months after the entry into force of the ceasefire on 19 January, the Israeli military resumed carrying out airstrikes across the Gaza Strip, which according to the Ministry of Health in Gaza killed more than 400 persons and injured over 500 others, with many feared to be trapped underneath the rubble;⁷ the military also issued relocation directives for the eastern parts of the enclave in a pattern resembling a buffer zone, including large parts of Beit Hanoun.⁸

According to media reports, an Israeli official indicated that the strikes were targeting ‘mid-level Hamas commanders, senior officials in Hamas’ political wing and Hamas’ military infrastructure’.⁹ The Hamas-controlled Government Media Office in Gaza indicated that among those killed were ‘Issam al-Daalis, head of the government administrative committee, Maj. Gen. Mohamed Abu Watfa, undersecretary of the Interior Ministry, Maj. Gen. Bahgat Abu Sultan, director of the domestic security agency and Ahmed al-

⁵ Jon Donnison and Lucy Clarke-Billings, ‘Israel Cuts Off Electricity Supply to Gaza, Minister Says’ *BBC News* (Jerusalem, 9 March 2025) <<https://www.bbc.com/news/articles/c1w0l3q4zd0o>> accessed 20 March 2025.

⁶ OCHA oPt Humanitarian Situation Update #271 (n 1).

⁷ Wafaa Shurafa, Josef Federman, and Samy Magdy, ‘Netanyahu Says Israeli Strikes Across Gaza that Killed Hundreds are “Only the Beginning”’ *The Associated Press* (Deir al-Balah, Gaza Strip, 19 March 2025) <<https://apnews.com/article/israel-palestinians-hamas-war-news-ceasefire-hostages-03-18-2025-0df87331efc6a7b1dfd99275f52868a5>> accessed 20 March 2025; Humanitarian Situation Update #273 | Gaza Strip’ (OCHA oPt, 18 March 2025) <<https://www.ochaopt.org/content/humanitarian-situation-update-273-gaza-strip>> accessed 20 March 2025.

⁸ Krauss, ‘Why Did Netanyahu End the Gaza Ceasefire?’ (n 2); Jason Burke, ‘Why Has Israel Resumed Large-Scale Airstrikes on Gaza?’ *The Guardian* (Jerusalem, 18 March 2025) <<https://www.theguardian.com/world/2025/mar/18/why-has-israel-resumed-large-scale-airstrikes-on-gaza>> accessed 20 March 2025.

⁹ Barak Ravid, ‘Israel Resumes War in Gaza with a Series of Massive Airstrikes Against Hamas’ *Axios* (Arlington, 18 March 2025) <<https://www.axios.com/2025/03/18/israel-gaza-war-resumes-airstrikes-hamas>> accessed 20 March 2025. See also Yaniv Kubovich, ‘IDF Targeting Hamas’ Civil Leadership to Undermine Its Ability to Control Gaza’ *Ha’aretz* (Tel Aviv, 18 March 2025) <<https://www.haaretz.com/israel-news/2025-03-18/ty-article/.premium/idf-targeting-hamas-civil-leadership-to-undermine-its-ability-to-control-gaza/00000195-a900-dbcf-a5f7-af083c2d0000>> accessed 20 March 2025.

Hetta, undersecretary of the Justice Ministry'.¹⁰ Two members of Hamas' political bureau and the spokesperson of the military wing of the Palestinian Islamic Jihad (PIJ) were reportedly also killed.¹¹

There have also been reports about large numbers of civilian deaths and injuries, with strikes reportedly hitting 'At Tabeen Governmental School in Ad Daraj area of Gaza city, Az Zawayda area in Deir al Balah, a site for internally displaced persons (IDP) in Al Mawasi area, in western Khan Younis, and IDP tents in Tal as Sultan area, in western Rafah'.¹² Hospitals already in dire straits were overwhelmed by the influx of the wounded, with doctors in one medical facility in Al-Mawasi 'forced to operate without light bulbs and emergency ventilation devices'.¹³ More than 100 children were reported to be amongst those killed, with entire families wiped out.¹⁴ Attacks continued on 19 and 20 March; one UN staff member was reportedly killed and others were injured when a UN compound in Deir al-Balah was struck.¹⁵ The Under-Secretary

¹⁰ Samy Magdy, ' Hamas Says at Least 4 Senior Officials Killed in Israeli Airstrikes' *The Associated Press* (Cairo, 18 March 2025) <<https://apnews.com/live/latest-updates-israel-launches-new-wave-of-airstrikes-across-gaza-after-ceasefire-talks-stall>> accessed 20 March 2025. See Yaniv Kubovich, 'Israeli Army and Shin Bet Say Head of Hamas Government in Gaza Killed in Airstrike' *Ha'aretz* (Tel Aviv, 18 March 2025) <<https://www.haaretz.com/israel-news/2025-03-18/ty-article-live/hamas-netanyahus-government-endangers-the-fate-of-the-hostages/00000195-a73c-d280-a1d5-bfff0d070000>> accessed 20 March 2025; Rushdi Abualouf, 'Five Hamas Officials Confirmed Killed in Overnight Strikes' *BBC News* (Cairo, 18 March 2025) <<https://www.bbc.com/news/live/czje23jd779t>> accessed 20 March 2025; Israel Defense Forces (X, 18 March 2025) <<https://x.com/IDF/status/1902037938449293465>> accessed 20 March 2025.

¹¹ Samy Magdy, ' Hamas Says 2 Political Officials Were Killed in Gaza' *The Associated Press* (Cairo, 18 March 2025) <<https://apnews.com/live/latest-updates-israel-launches-new-wave-of-airstrikes-across-gaza-after-ceasefire-talks-stall>> accessed 20 March 2025; Abualouf (n 10).

¹² OCHA oPt Humanitarian Situation Update #273 | Gaza Strip (n 7). See Wafaa Shurafa, Julia Frankel, and Samy Magdy, 'Israel's Surprise Bombardment Plunged Palestinians Back into "Hell"' *The Associated Press* (Deir al-Balah, Gaza Strip, 19 March 2025) <<https://apnews.com/article/gaza-airstrikes-ceasefire-israel-palestinians-war-34d2d174417e3f7caf341406bc761c0e>> accessed 20 March 2025; Wafaa Shurafa, 'A Pregnant Woman and Her Young Son Were Killed in Gaza by an Israeli Airstrike' *The Associated Press* (Khan Younis, Gaza Strip, 20 March 2025) <<https://apnews.com/article/gaza-israeli-airstrikes-palestinians-killed-afa7c3fcdcef2a7f1eb07a12c5cd8add>> accessed 20 March 2025.

¹³ Shurafa, Frankel, and Magdy (n 12).

¹⁴ OCHA oPt Humanitarian Situation Update #273 | Gaza Strip (n 7); 'News Quote: Gaza: Children Among Highest Casualties of Israeli Airstrikes in Return to Widespread Death and Destruction' (*Save the Children*, 18 March 2025) <<https://www.savethechildren.net/news/news-quote-gaza-children-among-highest-casualties-israeli-airstrikes-return-widespread-death>> accessed 20 March 2025; 'Israeli Air Strikes Kill Over 400 Palestinians Across Gaza Following Unilateral Resumption of Mass Attacks' (*Amnesty International*, 18 March 2025) <<https://www.amnesty.org/en/latest/news/2025/03/israeli-air-strikes-kill-over-400-palestinians-across-gaza-following-unilateral-resumption-of-mass-attacks/>> accessed 20 March 2025.

¹⁵ Aleks Phillips and Hafsa Khalil, 'UN Says Worker Killed in Gaza as Israeli Air Strikes Resume' *BBC News* (London, 19 March 2025) <<https://www.bbc.com/news/articles/ce8mpl4mk4go>> accessed 20 March 2025; Jason Burke, 'Israel Launches Gaza Airstrikes on Second Day of Resumed Offensive' *The Guardian* (Jerusalem, 19 March 2025) <<https://www.theguardian.com/world/2025/mar/19/israel-launches-gaza-airstrikes-on-second-day-of-resumed-offensive>> accessed 20 March 2025; Wafaa Shurafa and Samy Magdy, 'Israeli Strikes Across Gaza Hit Multiple Homes, Killing at Least 58 Palestinians, Medics Say' *The Associated Press* (Deir al-Balah, Gaza Strip, 20 March 2025)

General for Humanitarian Affairs and Emergency Relief Coordinator, Tom Fletcher, said the attacks on the ‘clearly designated’ compound were ‘infuriating’, calling for ‘a genuine investigation and accountability’.¹⁶ Israeli ground troops were reportedly deployed to Gaza for purposes of retaking control of the Netzarim corridor, which divides the Strip into two parts.¹⁷

The United Nations High Commissioner for Human Rights, Volker Türk, said in a statement that he was ‘horrified’ by the renewed hostilities, calling for the immediate and unconditional release of the hostages and all those arbitrarily detained as well as a permanent end to the fighting.¹⁸

These developments come after almost 1.5 years of hostilities that have killed more than 48,000 Palestinians and injured over 111,000 others, according to the Ministry of Health in Gaza.¹⁹ The vast majority of Gaza’s population is internally displaced, some many times over due to repeated instructions by the Israeli military to relocate, and large swathes of civilian infrastructure have been reduced to rubble, rendering much of Gaza uninhabitable for the foreseeable future.²⁰ Humanitarian needs are immense with the healthcare system largely destroyed and amidst a lack of means essential for survival, such as clean water, food, hygiene, and shelter.²¹

<<https://apnews.com/article/israel-palestinians-hamas-war-news-ceasefire-hostages-03-20-2025-36c07d3dc7c03f66f86f44409d504d43>> accessed 20 March 2025.

¹⁶ ‘Statement on Gaza by Tom Fletcher, Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator’ (*OCHA oPt*, 19 March 2025) <<https://www.ochaopt.org/content/statement-gaza-tom-fletcher-under-secretary-general-humanitarian-affairs-and-emergency-relief-coordinator>> accessed 20 March 2025.

¹⁷ Jason Burke, ‘Israel Launches “Limited Ground Operation” to Retake Netzarim Corridor in Gaza’ *The Guardian* (Jerusalem, 19 March 2025) <<https://www.theguardian.com/world/2025/mar/19/israel-launches-limited-ground-operation-to-retake-netzarim-corridor-in-gaza>> accessed 20 March 2025.

¹⁸ ‘Comment by UN Human Rights Chief Volker Türk on the Israeli Airstrikes on Gaza’ (*OHCHR*, 18 March 2025) <<https://www.ohchr.org/en/press-releases/2025/03/comment-un-human-rights-chief-volker-turk-israeli-airstrikes-gaza>> accessed 20 March 2025.

¹⁹ OCHA oPt Humanitarian Situation Update #271 (n 1). These numbers are prior to the resumption of airstrikes on 18 March 2025.

²⁰ Eg ‘Gaza Strip in Maps: How 15 Months of War Have Drastically Changed Life in the Territory’ *BBC News* (London, 16 January 2025) <<https://www.bbc.com/news/world-middle-east-20415675>> accessed 20 March 2025; ‘Reported Impact Snapshot | Gaza Strip (11 March 2025)’ (*OCHA oPt*, 11 March 2025)

<<https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-11-march-2025>> accessed 20 March 2025; Adam Taylor and Adrian Blanco Ramos, ‘What is Making Gaza “Uninhabitable”? Unexploded Bombs and More.’ *The Washington Post* (Washington, 6 February 2025) <<https://www.washingtonpost.com/world/2025/02/06/gaza-uninhabitable-bombs/>> accessed 20 March 2025.

²¹ Eg Ahmed Nour and others, ‘Diseases Spread in Gaza as Sewage Contaminates Camps and Coast’ *BBC News* (London, 26 August 2024) <<https://www.bbc.com/news/articles/c2kjk75eplo>> accessed 20 March 2025; ‘“People in Gaza Still Need an Immediate and Massive Scale-Up of Humanitarian Supplies”’ (*MSF*, 7 March 2025) <<https://www.msf.org/people-gaza-still-need-massive-scale-humanitarian-supplies>> accessed 20 March 2025; ‘Aid Surge into Gaza Continues, UN Teams Prioritize Immediate Needs’ (*UN News*, 13 February 2025) <<https://news.un.org/en/story/2025/02/1160096>> accessed 20 March 2025.

Israel previously cut off all humanitarian aid to Gaza in October 2023, shortly after the start of the hostilities, and when it imposed a siege on North Gaza governorate from October 2024 until the ceasefire in January 2025, with devastating humanitarian implications.²²

Meanwhile, against the backdrop of grave concerns about plans to permanently displace Palestinians from the Gaza Strip, US and Israeli officials have reportedly been mulling their relocation to Somalia, Somaliland, Sudan, and Syria.²³

The following sections examine the legality of Israel's conduct (i) pursuant to its obligations under the law of occupation and (ii) the rules on the conduct of hostilities as well as (iii) in respect of the resumption of hostilities itself.

Apparent violations of international law

Law of occupation

Israel retains obligations pursuant to the law of occupation in Gaza to the extent that it exerts effective control over relevant spheres of life in the Strip.²⁴

As the occupying power, Israel has a basic obligation to restore and ensure, as far as possible, public order and civil life in Gaza.²⁵ It must treat protected persons in the occupied territory – those who ‘find

²² Eg ‘2023-2024 Hostilities and Escalating Violence in the oPt | Account of Events’ (*Diakonia IHL Centre*, last updated 12 January 2024) <<https://www.diakonia.se/ihl/news/2023-hostilities-in-gaza-and-israel-factual-account-of-events/>> accessed 20 March 2025; ‘Legal Brief on the 2023 Hostilities in Israel and Gaza’ (*Diakonia IHL Centre*, 5 December 2023) 73-85 <<https://www.diakonia.se/ihl/news/legal-brief-on-the-2023-hostilities-in-israel-and-gaza/>> accessed 20 March 2025; ‘Analysis of Developments in North Gaza’ (*Diakonia IHL Centre*, 12 December 2024) <<https://www.diakonia.se/ihl/news/analysis-developments-north-gaza/>> accessed 20 March 2025; Eitan Diamond and Anna-Christina Schmidl, ‘Legal Issues Arising from Israel’s Conduct in North Gaza’ (*EJIL: Talk!*, 30 December 2024) <<https://www.ejiltalk.org/legal-issues-arising-from-israels-conduct-in-north-gaza/>> accessed 20 March 2025.

²³ Josef Federman, Matthew Lee, and Samy Magdy, ‘AP Exclusive: US and Israel Look to Africa for Moving Palestinians Uprooted from Gaza’ *The Associated Press* (Jerusalem, 14 March 2025) <<https://apnews.com/article/israel-palestinians-gaza-trump-somaliland-sudan-somalia-575e03aaa0c487bae2fbadfd8f5ca3>> accessed 20 March 2025; Camilla Schick and Margaret Brennan, ‘U.S., Israel Interested in Sudan, Somalia and Syria for Resettlement of Gazans, Sources Say’ *CBS News* (New York, 19 March 2025) <<https://www.cbsnews.com/news/gazans-resettlement-sudan-somalia-syria/>> accessed 20 March 2025.

²⁴ Eg Analysis of Developments in North Gaza (n 22); *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem* (Advisory Opinion) [2024] (Advisory Opinion of 19 July 2024) [88-94] <<https://icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-00-en.pdf>> accessed 20 March 2025; ‘Israel’s Expanding Obligations in Gaza Pursuant to the Law of Occupation’ (*Diakonia IHL Centre*, 15 February 2024) <<https://www.diakonia.se/ihl/news/israels-expanding-obligations-in-gaza-pursuant-to-the-law-of-occupation/>> accessed 20 March 2025.

²⁵ Hague Convention (IV) Respecting the Laws and Customs of War on Land and its Annex: Regulations Concerning the Laws and Customs of War on Land (adopted 18 October 1907, entered into force 26 January 1910) 205 CTS 277 (Hague Regulations) art 43.

themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals’ – humanely.²⁶ Collective punishment is absolutely prohibited.²⁷

Israel must further ensure by all means at its disposal the food and medical supplies of the population in the occupied territory as well as ensure and maintain medical establishments and services, public health, and hygiene in cooperation with the local authorities.²⁸ In case the population in the occupied territory is inadequately supplied, Israel must allow for and facilitate the safe passage of impartial humanitarian relief with all the means at its disposal, subject to a right to search such consignments and to regulate their passage.²⁹

Israel’s duties as an occupying power are further informed and complemented by its obligations pursuant to international human rights law (IHRL).³⁰ Accordingly, Israel must protect the human rights of the population in the occupied territory, such as the right to life, the right to the highest attainable standard of health, and the right to an adequate standard of living, including food, housing, and clothing.³¹

Israel’s decision to completely halt the entry of humanitarian aid and commercial supplies as well as to cut off the remaining electricity to the South Gaza Desalination Plant are fundamentally at odds with its obligation to ensure, with the means available to it, the food and medical supplies of the population and to allow for and take all possible measures to facilitate the passage of humanitarian relief.³² It also runs counter to Israel’s obligations under IHRL.³³ If anything, given the immense humanitarian needs and absence of hostilities prior to Israel’s unilateral resumption of attacks, deliveries of aid and commercial supplies should have been scaled up.³⁴ In addition, halting the entry of medical supplies, with predictable

²⁶ Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949, entered into force 21 October 1950) 75 UNTS 287 (GC IV) arts 4(1), 27(1), 32.

²⁷ *ibid* art 33(1).

²⁸ *ibid* arts 55(1), 56(1).

²⁹ *ibid* arts 23, 59(1), (4); Protocol (I) Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 3 (AP I) arts 69, 70.

³⁰ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (Advisory Opinion) [2004] ICJ Rep 136 (Wall Advisory Opinion) [107-113]; Advisory Opinion of 19 July 2024 (n 24) [97-101].

³¹ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 art 6(1); International Covenant on Economic, Social, and Cultural Rights of 1966 (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR) arts 11(1), 12(1).

³² OCHA oPt Humanitarian Situation Update #271 (n 1); GC IV arts 55(1), 59(1).

³³ Eg ICCPR art 6(1); ICESCR arts 11(1), 12(1).

³⁴ ‘Israeli Authorities Must Stop Use of Aid as a Tool of War in Gaza’ (MSF, 11 March 2025) <<https://www.msf.org/israeli-authorities-must-stop-use-aid-tool-war-gaza>> accessed 20 March 2025.

catastrophic consequences for a chronically undersupplied healthcare system in collapse, cannot be reconciled with Israel's obligation to ensure and maintain medical services and establishments.³⁵

The cutting off of aid and commercial supplies from Gaza may also amount to collective punishment of the population, which is prohibited in all circumstances.³⁶ Furthermore, the decision to suspend the electricity connection of the South Gaza Desalination Plant – a desperately needed source of clean drinking water for the area – may constitute removing or rendering useless objects indispensable for the survival of the civilian population.³⁷

Conduct of hostilities

In the conduct of hostilities, i.e., when means and methods of warfare are being used by opposing parties in an armed conflict, the parties must comply with the principles of distinction, proportionality, and precautions.³⁸

The principle of distinction requires belligerents to distinguish at all times between civilians and civilian objects on the one hand, and between combatants or fighters and military objectives on the other, and to direct their attacks only against the latter.³⁹

In an international armed conflict (IAC), combatants are members of the State armed forces.⁴⁰ In a non-international armed conflict (NIAC), those intentionally targetable on the part of a non-State armed group are fighters in its military wing with a continuous combat function, i.e., a function to take part in hostilities

³⁵ Julian Borger, 'Israeli Block on Aid Raises Health Fears for Gaza's Undernourished Population' *The Guardian* (Jerusalem, 2 March 2025) <<https://www.theguardian.com/world/2025/mar/02/halting-aid-to-gaza-is-aimed-at-giving-israel-upper-hand-in-talks-with-amas>> accessed 20 March 2025; GC IV art 56(1).

³⁶ OCHA oPt Humanitarian Situation Update #271 (n 1); GC IV art 33(1).

³⁷ OCHA oPt Humanitarian Situation Update #271 (n 1); AP I art 54(2).

³⁸ 'Conduct of Hostilities' (ICRC) <https://casebook.icrc.org/a_to_z/glossary/conduct-hostilities> accessed 20 March 2025; 'Conduct of Hostilities: General Principles' (Diakonia IHL Centre) <<https://www.diakonia.se/ihl/resources/international-humanitarian-law/conduct-of-hostilities-general-principles-ihl/>> accessed 20 March 2025.

³⁹ CIHL rr 1, 7.

⁴⁰ *ibid* r 3.

on behalf of the group.⁴¹ Everyone who is not a combatant or a fighter with continuous combat function is a civilian.⁴²

Military objectives are those which by their nature, location, purpose, or use make an effective contribution to military action and whose partial or total destruction, capture, or neutralisation, in the circumstances ruling at the time, offers a definite military advantage.⁴³ All other objects are civilian objects.⁴⁴

According to the principle of proportionality, an attacking party must refrain from carrying out an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof which would be excessive in relation to the concrete and direct military advantage anticipated.⁴⁵

It has been persuasively argued that the expected civilian harm and damage to civilian objects that must be considered when planning and conducting attacks should include the reasonably foreseeable reverberating effects of the attacks, i.e., their second- and third-order consequences such as the damage or destruction of water infrastructure, shelters, and hospitals leaving persons without access to drinking water, safe refuge, or medical care and thus exposing them to harm – especially in a densely populated urban environment such as Gaza where civilian infrastructure is highly interconnected and the number of persons dependent on it extremely high.⁴⁶

⁴¹ Nils Melzer, 'Interpretative Guidance on the Notion of Direct Participation in Hostilities Under International Humanitarian Law' (*ICRC*, May 2009) 32-36 <<https://www.icrc.org/sites/default/files/external/doc/en/assets/files/other/icrc-002-0990.pdf>> accessed 20 March 2025.

There is a discussion as to whether the hostilities between Israel and armed groups from Gaza form part of an IAC, a NIAC, or both. When issuing warrants of arrest for Israeli Prime Minister Benjamin Netanyahu, former Israeli Defence Minister Yoav Gallant, and the former Commander-in-Chief of Hamas' military wing, Mohammed Deif, the International Criminal Court (ICC) took the view that both the law of IAC and NIAC is applicable. 'Situation in the State of Palestine: ICC Pre-Trial Chamber I Rejects the State of Israel's Challenges to Jurisdiction and Issues Warrants of Arrest for Benjamin Netanyahu and Yoav Gallant' (*ICC*, 21 November 2024) <<https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-rejects-state-israels-challenges>> accessed 20 March 2025; 'Situation in the State of Palestine: ICC Pre-Trial Chamber I Issues Warrant of Arrest for Mohammed Diab Ibrahim Al-Masri (Deif)' (*ICC*, 21 November 2024) <<https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-issues-warrant-arrest-mohammed-diab-ibrahim>> accessed 20 March 2025.

⁴² Melzer (n 41) 36; CIHL r 5.

⁴³ CIHL r 8.

⁴⁴ *ibid* r 9.

⁴⁵ *ibid* r 14.

⁴⁶ Isabel Robinson and Ellen Nohle, 'Proportionality and Precautions in Attack: The Reverberating Effects of Using Explosive Weapons in Populated Areas' (2016) 98 *Intl Rev Red Cross* 107; Mark Zeitoun and Michael Talhami, 'The Impact of Explosive Weapons on Urban Services: Direct and Reverberating Effects Across Space and Time' (2016) 98 *Intl Rev Red Cross* 53.

The principle of precautions mandates parties to an armed conflict to take all feasible precautionary measures to avoid, and in any event to minimise, incidental loss of civilian life, injury to civilians, and damage to civilian objects.⁴⁷ Examples of such measures include:

- Verifying that targets are military objectives;⁴⁸
- Choosing means and methods of warfare with a view to avoiding, and in any event to minimising, incidental civilian harm and damage to civilian objects;⁴⁹
- Assessing the expected effects of attacks as regards proportionality;⁵⁰
- Cancelling or suspending an attack if it becomes apparent that the target is not a military objective or that the attack would be disproportionate;⁵¹ and
- Giving an effective advance warning of attacks that may affect the civilian population unless circumstances do not allow.⁵²

The parties to a conflict are further prohibited from carrying out acts or threats of violence the primary purpose of which is to spread terror among the civilian population.⁵³ More generally, they must take constant care to spare civilians, civilian objects, and the civilian population in the conduct of military operations.⁵⁴

There are grave grounds for concern that Israel's renewed airstrikes across Gaza have been in disregard of these norms and principles.

For one, according to reports from both the Israeli authorities and Hamas, those killed include members of Hamas' politburo and government officials of the Hamas-controlled de facto authorities.⁵⁵ Media reports further suggest that Israel's targets include Hamas' political and civilian leadership.⁵⁶ If confirmed, this would amount to a violation of the principle of distinction and a war crime.⁵⁷ That is because political and civilian officials of the de facto authorities as well as members of Hamas' politburo do not ordinarily

⁴⁷ CIHL r 15.

⁴⁸ *ibid* r 16.

⁴⁹ *ibid* r 17.

⁵⁰ *ibid* r 18.

⁵¹ *ibid* r 19.

⁵² *ibid* r 20.

⁵³ *ibid* r 2.

⁵⁴ *ibid* r 15. According to AP I art 49(1), 'attacks' are 'acts of violence against the adversary, whether in offence or in defence'; the term 'military operations' is broader.

⁵⁵ Magdy (n 10); Kubovich (n 10); Abualouf (n 10); Israel Defense Forces (n 10); Magdy (n 11).

⁵⁶ Ravid (n 9); Kubovich (n 9).

⁵⁷ CIHL r 1; Rome Statute of the ICC (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3 (ICC Statute) arts 8(2)(b)(i), 8(2)(e)(i).

For concerns over Israel's expansive approach to targeting since the beginning of the hostilities in October 2023 see Legal Brief on the 2023 Hostilities (n 22) 43-49.

have a continuous combat function in Hamas' military wing.⁵⁸ They are thus civilians for the purposes of targeting and protected from intentional attack unless and only for such time as they directly participate in hostilities – which it is most unlikely that they were doing given that there was a ceasefire in place since 19 January and no fighting until the renewed Israeli airstrikes on 18 March 2025.⁵⁹

As regards proportionality, it should have been foreseeable and expected that attacks throughout densely populated neighbourhoods in the Gaza Strip, such as on and around homes as well as tents and shelters for displaced persons, would lead to a high number of civilian deaths and injuries – as a direct result of these attacks but also due to the prior cutoff of supplies and significant degradation of healthcare facilities, leaving those with serious injuries unable to obtain the medical care they need.⁶⁰

It is also unclear to what extent precautionary measures were taken by the Israeli military to verify that supposed targets were indeed military objectives, to assess the effects of attacks regarding the anticipated civilian harm, and to choose appropriate means and methods of warfare.⁶¹ In view of the high number of reported civilian casualties, including more than 100 children, as well as reports of heavy bombardment in residential areas, there is good reason to doubt that the requisite precautions were taken.⁶² Given that many were reportedly killed or injured in their sleep, it also seems that the Israeli military did not provide an effective advance warning to the civilian population in respect of these attacks.⁶³

⁵⁸ Melzer (n 41) 36.

⁵⁹ *ibid.* Direct participation in hostilities requires that the following cumulative criteria are met:

1. The act must be likely to adversely affect the military operations or military capacity of a party to an armed conflict or, alternatively, to inflict death, injury, or destruction on persons or objects protected against direct attack (threshold of harm), and
2. there must be a direct causal link between the act and the harm likely to result either from that act, or from a coordinated military operation of which that act constitutes an integral part (direct causation), and
3. the act must be specifically designed to directly cause the required threshold of harm in support of a party to the conflict and to the detriment of another (belligerent nexus).

ibid 46.

⁶⁰ OCHA oPt Humanitarian Situation Update #273 | Gaza Strip (n 7); Shurafa, Frankel, and Magdy (n 12); Shurafa (n 12); Bel Trew, 'Gaza Doctors Describe Scenes of "Armageddon" After Israeli Strikes Shatter Ceasefire' *The Independent* (London, 19 March 2025) <<https://www.independent.co.uk/news/world/middle-east/gaza-air-strikes-israel-bombings-palestine-hamas-hostages-b2717684.html>> accessed 20 March 2025; Ruwaida Kamal Amer, "'We Just Want it All to Stop": Palestinians Across Gaza Awake to New Israeli Massacre' *+972 Magazine* (Tel Aviv, 18 March 2025) <<https://www.972mag.com/gaza-massacre-renewed-israeli-assault/>> accessed 20 March 2025.

⁶¹ CIHL rr 15, 16, 17, 18.

⁶² OCHA oPt Humanitarian Situation Update #273 | Gaza Strip (n 7); Shurafa, Frankel, and Magdy (n 12); Shurafa (n 12); Trew (n 60); CIHL r 15.

⁶³ Rushdi Abualouf, Robert Greenall, and George Wright, 'Israel Launches Waves of Strikes on Gaza with More Than 400 Reportedly Killed' *BBC News* (Cairo and London, 18 March 2025) <<https://www.bbc.com/news/articles/c9vy3k4dpz0o>> accessed 20 March 2025; Trew (n 60); CIHL r 20.

Furthermore, instructions by the Israeli military for civilians in the eastern part of Gaza to relocate amidst continuing attacks and catastrophic humanitarian conditions – leaving them with nowhere safe to go – contravene humanitarian principles and are difficult to reconcile with Israel’s duty to take constant care to spare the civilian population in the conduct of military operations.⁶⁴

Finally, the nighttime attacks in the early hours of 18 March 2025 during the holy month of Ramadan, which foreseeably surprised many in their sleep and led to a large number of civilian casualties, also raises concern that the attacks may amount to violence aimed at spreading terror among the civilian population.⁶⁵

Resumption of hostilities

Further to specific violations of the conduct of hostilities rules, there is also something to be said in respect of the resumption of hostilities in itself. Generally, international humanitarian law (IHL) presupposes that belligerents may employ certain permissible means and methods of warfare for purposes of defeating the adversary. As such, IHL does not prohibit a party to an armed conflict from resorting to hostilities.⁶⁶

That being said, an examination of an occupying power’s obligations in occupied territory as well as the underlying principles of the law of occupation suggest that resort to hostilities – i.e., the use of force in accordance with the conduct of hostilities paradigm – by an occupying power may be subject to certain constraints. As noted, Gaza is occupied territory, and accordingly Israel retains obligations pursuant to the law of occupation to the extent that it retains control over relevant spheres of life in the Strip.

As a general principle, the occupying power is supposed to temporarily administer the occupied territory on behalf of the rightful sovereign in good faith and for the benefit of the local population. Furthermore, it must try to strike a balance between its own legitimate security interests in the occupied territory and the rights and needs of the local population.

Amer (n 60): ‘...the sudden aerial and artillery strikes on the enclave **hit families in their homes and tents while they were sleeping**, just an hour before the pre-dawn Ramadan meal’ [emphasis added].

A doctor at Nasser Hospital in Khan Younis described the situation in the emergency ward as follows: “‘There were probably three men, and the rest were all children, women, the elderly – **it was everybody caught in their sleep, still wrapped in their blankets**. Terrifying, a level of horror and evil that is hard to articulate. It felt like armageddon” [emphasis added]. Trew (n 60).

⁶⁴ OCHA oPt Humanitarian Situation Update #273 | Gaza Strip (n 7); Krauss, ‘Why Did Netanyahu End the Gaza Ceasefire?’ (n 2); CIHL r 15.

⁶⁵ Trew (n 60); Amer (n 60); Abualouf, Greenall, and Wright (n 63); CIHL r 2.

⁶⁶ There is a debate as to what effect an open-ended ceasefire has on a party’s entitlement to resume active hostilities. According to one line of argumentation, an indefinite ceasefire must be complied with in good faith, and a return to hostilities is only permitted in case of a serious breach of the ceasefire by the other party. Eg Peter S Konchak, ‘Ceasefire in International Armed Conflict: Implications for Jus Ad Bellum Self-Defense’ (*Articles of War*, 14 February 2024) <<https://lieber.westpoint.edu/ceasefire-international-armed-conflict-implications-jus-ad-bellum-self-defense/>> accessed 20 March 2025; ‘Armistice’ (*ICRC*) <https://casebook.icrc.org/a_to_z/glossary/armistice> accessed 20 March 2025.

By definition, an occupying power exercises effective control over the occupied territory.⁶⁷ While the population in the occupied territory does not owe a duty of allegiance to the occupying power, in case of antagonism or resistance, the occupying power is allowed to use force as part of its obligation to maintain or restore public order and civil life.⁶⁸ The default framework applicable to an occupying power's use of force in occupied territory is the more protective law enforcement paradigm rooted in IHRL.⁶⁹ It has been argued that an occupying power may resort to the conduct of hostilities paradigm only in case of 'armed confrontations of the same nature as those of a non-international armed conflict' – i.e., clashes of a certain intensity between the occupying power and sufficiently organised non-State armed groups.⁷⁰ In Gaza, there have been such confrontations since at least October 2023, making the conduct of hostilities paradigm *prima facie* applicable.

It has further been argued that the reality of hostilities in occupied territory affects the scope of some of the occupying power's obligations pursuant to the law of occupation – those which are obligations of conduct, not result, such as ensuring and maintaining medical establishments and services in cooperation with the local authorities, for example.⁷¹ Consequently, it can be suggested that the reverse must be true as well: the reality of occupation, and an occupying power's obligations pursuant to the law of occupation, affect the circumstances in which it may resort (or return) to hostilities.

Israel decided to resume hostilities in Gaza even though there was no actual fighting from the opposing parties with a ceasefire in effect (which Israel reportedly sought to unilaterally amend before denouncing it altogether).⁷² This occurred amidst a catastrophic humanitarian situation in the Strip, with much of the civilian population in Gaza bereft of the means necessary for survival, resulting not just from the general effects of hostilities but from Israel's own preceding violations of international law, including its

⁶⁷ Hague Regulations art 42.

⁶⁸ *ibid* art 43. Furthermore, an occupying power may take 'such measures of control and security ... as may be necessary as a result of the war', but these may not affect the fundamental rights afforded to protected persons; the strictest security measure that an occupying power may resort to vis-à-vis the population in the occupied territory is internment or assigned residence. GC IV arts 27(1), (4), 78(1); 1958 Commentary to GC IV art 27(4) p 207.

⁶⁹ Marco Longobardo, *The Use of Armed Force in Occupied Territory* (CUP 2018) 186; 'Overkill: A Critical Appraisal of the Use of Force by Israel in the West Bank' (*Diakonia IHL Centre*, 6 January 2025) <<https://www.diakonia.se/ihl/news/overkill-a-critical-appraisal-of-the-use-of-force-by-israel-in-the-west-bank/>> accessed 20 March 2025; Eitan Diamond, Ellen Nohle, and Anna-Christina Schmidl, 'The Legal Framework Regulating Israel's Use of Force in the West Bank' (*Opinio Juris*, 30 January 2025) <<https://opiniojuris.org/2025/01/30/the-legal-framework-regulating-israels-use-of-force-in-the-west-bank/>> accessed 20 March 2025.

⁷⁰ Longobardo (n 69) 237. See *ibid* 235-240.

⁷¹ GC IV art 56(1); Yoram Dinstein, *The International Law of Belligerent Occupation* (2nd ed, CUP 2019) 110-111.

⁷² Shurafa, Federman, and Magdy (n 7). Israel did seem to suggest that the opposing parties might return to fighting. Krauss, 'Why Did Netanyahu End the Gaza Ceasefire?' (n 2): 'Israel has accused Hamas of preparing for new attacks, without providing evidence'. Ravid (n 9): 'The Israeli official claimed that in recent days during the ceasefire, Hamas prepared to carry out new attacks against Israel and took steps to rearm'.

obligations pursuant to the law of occupation and the rules on the conduct of hostilities.⁷³ The decisions to completely halt the entry of humanitarian aid and commercial supplies into Gaza as well as to cut off electricity to the South Gaza Desalination Plant were just the most recent examples in this regard.⁷⁴ Furthermore, as elaborated in the preceding section, there are grave grounds for concern that when Israel *did* resume its attacks on 18 March 2025, it disregarded the applicable rules on the conduct of hostilities. This only stands to further aggravate the catastrophic humanitarian situation in Gaza, including the mass displacement of the civilian population, and thus Israel's violations of its obligations pursuant to the law of occupation.

Cumulatively, the resumption of hostilities seems to have been undertaken in bad faith and to the grave detriment of Palestinians in Gaza, for no immediately discernible military or security rationale given the ceasefire in effect – except Israel's own unconfirmed claims about plans by Hamas to attack.⁷⁵ Such concerns are further reinforced by rhetoric from Israeli officials, including members of the governing coalition, advocating for the permanent displacement and ethnic cleansing of Palestinians from Gaza.⁷⁶ An occupying power is prohibited from deporting protected persons from occupied territory, and any purported annexation of the occupied territory does not change its status or diminish the rights of protected persons.⁷⁷ In addition, the prohibition of the acquisition of territory by force, including by means of annexation, is one of the cornerstones of international law.⁷⁸

⁷³ Eg Legal Brief on the 2023 Hostilities (n 22); Analysis of Developments in North Gaza (n 22).

⁷⁴ OCHA oPt Humanitarian Situation Update #271 (n 1).

⁷⁵ Krauss, 'Why Did Netanyahu End the Gaza Ceasefire?' (n 2); Ravid (n 9).

⁷⁶ Eg Federman, Lee, and Magdy (n 23); Jeremy Sharon, "'Occupy, Expel, Settle': Minister, MKs at Far-right Rally Call 'to Empty Gaza of Gazans'" *Times of Israel* (Jerusalem, 28 February 2025) <<https://www.timesofisrael.com/occupy-expel-settle-minister-mks-at-far-right-rally-call-to-empty-gaza-of-gazans/>> accessed 20 March 2025.

⁷⁷ GC IV arts 47, 49(1).

⁷⁸ Eg Advisory Opinion of 19 July 2024 (n 24) [174-179].