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EXPERTS ON INTERNATIONAL HUMANITARIAN LAW

After Three Years of Devastating Hostilities, Accountability Cannot Wait

7 October 2026

Legal Note

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The International Humanitarian Law Centre is an independent expert group that provides rapid and in-depth legal advice, training and advocacy on the laws of war to ensure the protection of persons in conflict zones worldwide.

Since its establishment in 2004, the Centre has been a source of legal expertise supporting humanitarian and human rights action in the Israeli-Palestinian context.

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Table of contents

Three years of immense suffering and disregard of international law 4

Pathways for accountability and redress 8

Individual criminal responsibility 8

Obstacles and challenges 12

Ways forward and select recommendations 16

Three years of immense suffering and disregard of international law

Today marks three years since the attacks by Hamas-led armed groups in Israel and the inception of Israel's ongoing assault on Gaza.

Israeli sources report that more than 1,200 people were killed and around 5,400 were injured in the Hamas-led attacks of 7 October 2023.[1] Since then, more than 74,000 Palestinians in Gaza have been killed and over 175,000 others have been injured, according to the Health Ministry in Gaza.[2] Large swathes of Gaza's built-up landscape – including residential homes, markets, educational institutions, medical facilities, places of worship, and agricultural land – have been razed to the ground, with UN estimates indicating that over 80% of structures have been destroyed or sustained damage.[3] Despite the entry into force of a tenuous ceasefire one year ago, Israeli attacks continue,[4] and amidst the approaching winter season, Gaza's population remains in dire need of essential supplies and services.[5]

The tragic human toll that has been inflicted on Palestinians and Israelis over the course of the past three years was not inevitable but rather the result of systematic disregard of fundamental rules of international law.

The Hamas-led attacks entailed a wide range of unlawful acts including intentional attacks on civilians and murder; torture and ill-treatment, including sexual violence; hostage-taking;

[1] 'Reported Impact Snapshot | Gaza Strip (23 September 2026)' (OCHA oPt, 28 September 2026) <https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-23-september-2026>

[2] 'Palestinian Death Toll in Gaza War Passes 74,000, and Other Mideast News' *The Associated Press* (New York, 27 September 2026) <https://apnews.com/article/israel-gaza-iran-israel-yemen-september-27-2026-96b100178557a28f51e2ad4f74539699>

[3] Reported Impact Snapshot | Gaza Strip (23 September 2026) (n 1). See Lee Keath and Wafaa Shurafa, 'Israel is Still Tearing Down Buildings in Gaza a Year After the Ceasefire' *The Associated Press* (Deir al-Balah, Gaza Strip, 7 October 2026) <https://apnews.com/article/gaza-war-israel-demolition-3a187f030deb29d97d547cc363875d0c>

[4] See, for example, 'One Year On, Trump's Gaza Plan Has Not Stopped Israeli Fire or Disarmed Hamas' *Reuters* (Jerusalem, 6 October 2026) <https://www.reuters.com/world/middle-east/one-year-trumps-gaza-plan-has-not-stopped-israeli-fire-or-disarmed-hamas-2026-10-06/>

[5] Reported Impact Snapshot | Gaza Strip (23 September 2026) (n 1)

mistreatment of the dead; as well as destruction and pillage of property, which may implicate those responsible in the commission of war crimes and crimes against humanity.[6]

Israel, for its part, carried out an unrelenting barrage of attacks in densely populated civilian areas, making a travesty of the rules on the conduct of hostilities.[7] It systematically deprived the civilian population of essential resources necessary for their survival,[8] creating conditions of starvation;[9] forcibly displaced millions of people in circumstances of utter destitution;[10] imposed unlawful restrictions on the operations of impartial humanitarian actors;[11] and disregarded the special protections afforded to medical units, transports, and personnel,[12] precipitating the collapse of the healthcare system.[13] Israel has also carried out extensive demolitions of property in areas under its control, systematically levelling entire residential blocks and critical civilian infrastructure, even though such destruction in occupied territory is prohibited save in very limited, exceptional circumstances.[14]

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[6] 'Legal Analysis of the Initial Stages of the 2023 Hostilities in Israel and Gaza' (IHL Centre, 5 December 2023) 27-35 <https://www.ihlcentre.org/news/legal-brief-on-the-2023-hostilities-in-israel-and-gaza/>. See also '"I Can't Erase All the Blood from My Mind": Palestinian Armed Groups' October 7 Assault on Israel' (Human Rights Watch, 17 July 2024) <https://www.hrw.org/report/2024/07/17/i-cant-erase-all-the-blood-from-my-mind/palestinian-armed-groups-october-7>

[7] See, for example, Legal Analysis of the Initial Stages of the 2023 Hostilities in Israel and Gaza (n 6) 43-72; 'Laws of War Likely "Consistently Violated"' in Israeli Strikes on Gaza: UN Rights Office' (UN News, 19 June 2024) <https://news.un.org/en/story/2024/06/1151196>; 'Legal Analysis of the Destruction of Healthcare in North Gaza' (IHL Centre, 16 April 2025) 19-33 <https://www.ihlcentre.org/news/destruction-of-healthcare-north-gaza/>

[8] See, for example, 'Analysis of Developments in North Gaza' (IHL Centre, 12 December 2024) <https://www.ihlcentre.org/news/analysis-developments-north-gaza/>

[9] 'Gaza Strip: Famine Confirmed in Gaza Governorate, Projected to Expand | 1 July - 30 September 2025' (IPC, 22 August 2025) <https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_Gaza_Strip_Acute_Food_Insecurity_Malnutrition_July_Sept2025_Special_Snapshot.pdf>

[10] See, for example, Eitan Diamond and Ellen Nohle, 'Humanitarian Displacement? The (Mis)Appropriation of Humanitarian Principles to Justify Mass Displacement' (2024) 27 Yearbook Int'l Hum L 59

[11] 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) art 59

[12] See, for example, Legal Analysis of the Destruction of Healthcare in North Gaza (n 7)

[13] See, for example, Anna-Christina Schmidl and Eitan Diamond, 'The Systematic Destruction of Healthcare in Gaza' (Opinio Juris, 11 July 2025) <https://opiniojuris.org/2025/07/11/the-systematic-destruction-of-healthcare-in-gaza/>

[14] GC IV (n 11) art 53.

Furthermore, Israel has been detaining thousands of Palestinians from across the occupied Palestinian territory (oPt), including from Gaza,[15] on grounds and under conditions that contravene applicable safeguards set out in both international humanitarian law (IHL) and international human rights law (IHRL), including a denial of ICRC visits and other forms of oversight.[16] Testimonies and reports by detainees, prison staff, and medical personnel indicate widespread torture and ill-treatment of Palestinians in detention, including sexual violence.[17]

Israel's conduct entails serious violations of IHL and possibly other internationally wrongful acts such as crimes against humanity and genocide;[18] it may also implicate the responsible individuals in the commission of war crimes, crimes against humanity, and the crime of genocide.

Since the onset of hostilities in October 2023, Palestinians in the West Bank, including East Jerusalem too have been enduring escalating levels of oppression. Among other things, this has involved excessive use of force by Israeli security forces;[19] intensifying settler violence, which the Israeli authorities have failed to prevent and in many cases

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[15] '"Security" Inmates in Prisons Inside Israel' (HaMoked, last updated 1 October 2026) <https://hamoked.org/>

[16] 'Unlawful Incarceration: Legal Analysis of Israel's Military Detention Regime' (IHL Centre, 30 August 2024) <https://www.ihlcentre.org/news/unlawful-incarceration-legality-military-detention-regime-gaza/>; 'Opinion on ICRC Access to All Places of Detention Where Protected Persons Are Present' (IHL Centre, 11 July 2024) <https://www.ihlcentre.org/news/opinion-icrc-access-detention-protected-persons/>

[17] See, for example, 'Welcome to Hell: The Israeli Prison System as a Network of Torture Camps' (B'Tselem) <https://www.btselem.org/publications/202408_welcome_to_hell>

[18] See, for example, Emma Graham-Harrison, 'Israel Committing Genocide in Gaza, Say Israel-Based Human Rights Groups' *The Guardian* (London, 28 July 2025) <https://www.theguardian.com/world/2025/jul/28/israel-committing-genocide-in-gaza-say-israel-based-human-rights-groups>; 'Israel Has Committed Genocide in the Gaza Strip, UN Commission Finds' (OHCHR, 16 September 2025) <https://www.ohchr.org/en/press-releases/2025/09/israel-has-committed-genocide-gaza-strip-un-commission-finds>; 'Genocide Against Gaza' (Palestinian Centre for Human Rights) <https://pchrgaza.org/category/genocide-against-gaza/>

[19] See, for example, 'West Bank Monthly Snapshot – Casualties, Property Damage and Displacement | August 2026' (OCHA oPt, 17 September 2026) <https://www.ochaopt.org/content/west-bank-monthly-snapshot-casualties-property-damage-and-displacement-august-2026>; 'Overkill: A Critical Appraisal of the Use of Force by Israel in the West Bank' (IHL Centre, 6 January 2025) <https://www.ihlcentre.org/news/overkill-a-critical-appraisal-of-the-use-of-force-by-israel-in-the-west-bank/>

have facilitated or supported, and which they rarely investigate;[20] further severe restrictions on Palestinians' already substantially circumscribed freedom of movement;[21] and a series of administrative measures suggesting annexationist intent,[22] such as the resumption of the land registration process in East Jerusalem and parts of the West Bank.[23]

The events of the past three years did not occur in isolation. They must be viewed in the wider context of Israel's 59-year occupation of Palestinian territory, which has long given rise to serious concerns about systematic violations of international law.

In its landmark Advisory Opinion of 19 July 2024, the International Court of Justice took stock of the unlawful policies and practices implemented by Israel in the oPt over the decades.[24] These include the establishment and maintenance of Israeli settlements, the displacement and dispossession of Palestinian communities, and the adoption of discriminatory legislation and measures.[25] The Court further held that Israel's continued presence in the oPt as a whole is unlawful and must be brought to an end as rapidly as possible.[26]

The IHL Centre laments that international law has been disregarded with such devastating consequences in the Israeli-Palestinian context and calls upon all parties to

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[20] See, for example, 'West Bank – The Impact of Settler Attacks | January 2023 – August 2026' (OCHA oPt, 23 September 2026) <https://www.ochaopt.org/content/west-bank-impact-settler-attacks-january-2023-august-2026>; 'Responsibility Under International Law for Settler Violence in the Occupied Palestinian Territory' (IHL Centre, 8 July 2024) <https://www.ihlcentre.org/news/responsibility-international-law-settler-violence/>

[21] 'Movement and Access in the West Bank | April 2026' (OCHA oPt, 23 April 2026) <https://www.ochaopt.org/content/movement-and-access-west-bank-april-2026>

[22] See, for example, 'Israel's Security Cabinet Approves Measures to Strengthen Control Over the West Bank' *The Associated Press* (Jerusalem, 8 February 2026) <https://apnews.com/article/west-bank-israel-settlement-palestinians-cabinet-328429d96099bc33275035b85244797a>

[23] 'Settlement of Land Title in the oPt: An International Law-Based Appraisal' (IHL Centre, 27 March 2026) <https://www.ihlcentre.org/news/settlement-of-land-title-in-the-opt-an-international-law-based-appraisal/>

[24] *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem* (Advisory Opinion) General List No 186 [2024] (2024 Advisory Opinion)

[25] ibid [103]–[243]

[26] ibid [285(3)], [285(4)]

the conflict to strictly adhere to their obligations. IHL in particular functions as a minimum safeguard: while this body of law acknowledges the fundamental reality of armed conflict, its rules and principles are designed to prevent a descent into unchecked brutality. Over the past three years of hostilities and, indeed, the preceding decades, a sustained failure to respect some of these basic standards has precipitated precisely such tragic outcomes. This raises the question of how the law can be enforced and what prospects exist for accountability.

Pathways for accountability and redress

As the primary subjects of the international legal order, States are not just the authors of international legal rules, but also their principal addressees and enforcement agents. Accordingly, in case a State commits an internationally wrongful act – that is, a violation of an international obligation that is attributable to it – certain legal consequences follow.[27] The IHL Centre has addressed some of the consequences incumbent upon Israel – the actor responsible for violations in the oPt – and third States in a range of publications.[28] This note in turn focuses on individual criminal accountability.

Individual criminal responsibility

In addition to States, individuals too may be held accountable for violations of international law – notably war crimes, crimes against humanity, the crime of genocide, and the crime of aggression – in case their criminal responsibility for such acts can be established. International criminal law is premised upon the idea encapsulated by the

[27] ILC 'Articles on Responsibility of States for Internationally Wrongful Acts', annex to UN General Assembly Resolution 56/83 of 12 December 2001, and corrected by document A/56/49(Vol. I)/Corr.4.

[28] See, for example, 'International Law Parameters for Third-State Engagement in Gaza' (IHL Centre, 18 March 2026) <https://www.ihlcentre.org/news/international-law-parameters-for-third-state-engagement-in-gaza/>; 'Responsibility of Third Parties Emanating from the Findings of the ICJ's Advisory Opinion of 19 July 2024' (IHL Centre, 22 October 2024) <https://www.ihlcentre.org/news/icj-advisory-opinion-legal-consequences-third-states-international-organisations/>; 'Legal and Humanitarian Imperatives for the "Day After" in Gaza' (IHL Centre, 6 February 2026) <https://www.ihlcentre.org/news/legal-and-humanitarian-imperatives-for-the-day-after-in-gaza/>; 'ICJ Contentious Case South Africa v. Israel' (IHL Centre, 23 February 2024) <https://www.ihlcentre.org/news/icj-questions-answers-contentious-proceedings-southafrica-israel-genocide-convention/>

International Military Tribunal at Nuremberg in 1946 that '[c]rimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced'.[29] Notably, as a direct outcome of the Nuremberg judgment, the invocation of superior orders is not considered a valid defence if the orders were manifestly unlawful and a 'moral choice' remained available to the perpetrator under the circumstances.[30]

First and foremost, **Israel** has various obligations with regards to ensuring individual criminal accountability for unlawful conduct allegedly committed by its nationals, including its military and officials. Israel must search for and try before its domestic courts alleged perpetrators of grave breaches of the universally ratified Geneva Conventions, or hand them over for prosecution in another State.[31] As a State party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, [32] Israel has a similar obligation to prosecute or extradite alleged perpetrators of violations of the Convention who are present in its territory (which will most likely be the case for its nationals).[33] Such an obligation is also set out with respect to alleged perpetrators of crimes against humanity in the Draft articles on Prevention

[29] 'Judgement: The Law of the Charter' (The Avalon Project at Yale Law School) <https://avalon.law.yale.edu/imt/judlawch.asp>

[30] ILC 'Principles of International Law Recognized in the Charter of the Nürnberg Tribunal and in the Judgment of the Tribunal' (1950), text adopted by the International Law Commission at its second session, and published in II Yearbook Int'l L Com para 97 prin IV

[31] GC IV (n 11) art 146(2)

[32] 'Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment' (United Nations Treaty Collection) <https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-9&chapter=4&clang=_en>

[33] Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85 (Convention Against Torture) arts 6-8

and Punishment of Crimes Against Humanity,[34] which are not yet in force but may partly reflect customary international law.[35]

Customary international law further mandates that Israel investigate all war crimes allegedly committed by its nationals or armed forces, or on its territory and, if appropriate, prosecute the suspects.[36] In addition, the Convention on the Prevention and Punishment of the Crime of Genocide, to which Israel is party,[37] envisages that those suspected of committing genocide or other prohibited acts set out in the Convention 'be tried by a competent tribunal of the State in the territory of which the act was committed'.[38] In the case of acts of genocide allegedly committed by Israeli nationals in the context of the hostilities in Gaza, this would primarily be the oPt but may extend to Israel if conduct was commenced or planned there. It could also be argued that Israel has an obligation to prosecute or extradite alleged perpetrators of genocide who find themselves in its territory pursuant to customary international law.[39]

Second, as the IHL Centre has argued in a previous publication, an obligation to investigate IHL violations may also be incumbent upon **Hamas** as a result of its de facto control over parts of Gaza and, given its status as an organised armed group, follow from the doctrine of command responsibility and its duty to ensure respect for IHL.[40] Any

[34] ILC 'Draft Articles on Prevention and Punishment of Crimes Against Humanity' (2019), adopted by the International Law Commission at its 71st session, published in II Yearbook Int'l L Com pt 2 art 10

[35] ILC 'Draft Articles on Prevention and Punishment of Crimes Against Humanity, With Commentaries' (2019), adopted by the International Law Commission at its 71st session, published in II Yearbook Int'l L Com pt 2 23

[36] Study on Customary IHL by the International Committee of the Red Cross (ICRC) 'Customary IHL Study' (ICRC, first published in 2005) (CIHL) r 158

[37] 'Convention on the Prevention and Punishment of the Crime of Genocide' (United Nations Treaty Collection) <https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-1&chapter=4>

[38] Convention on the Prevention and Punishment of the Crime of Genocide (adopted 9 December 1948, entered into force 12 January 1951) 78 UNTS 277 (Genocide Convention) art VI

[39] See, for example, ILC 'Draft Code of Crimes Against the Peace and Security of Mankind' (1996), adopted by the International Law Commission at its 48th session, published in II Yearbook Int'l L Com pt 2 arts 9, 17.

[40] Legal and Humanitarian Imperatives for the "Day After" in Gaza (n 28) 35 and the references cited therein; ICRC, *Commentary on the Fourth Geneva Convention: Convention (IV) Relative to the Protection of Civilian Persons in Time of War* (2nd ed, ICRC 2025) (2025 ICRC Commentary to GC IV) art 3 paras 781-782

proceedings conducted for this purpose would have to fully respect fair trial and humane treatment guarantees.[41]

Importantly, **third States** too have a key role to play and, indeed, obligations with respect to ensuring individual criminal accountability in the Israeli-Palestinian context. Given their scale and systematicity, international crimes often involve officials at the highest levels of State authority who may order, facilitate, or acquiesce in their commission.[42] Accordingly, the State of nationality of the alleged perpetrators will often be disinclined to hold them accountable. Moreover, the alleged offences in question – war crimes, the crime of torture, crimes against humanity, and the crime of genocide – are of such gravity as to concern the international community as a whole, meaning that alleged perpetrators should not be allowed to find safe haven in another country.[43]

Like Israel, third States have an obligation to prosecute or extradite persons within their territory who are alleged to have committed grave breaches of the Geneva Conventions, regardless of their nationality;[44] arguably, a similar obligation emerges from customary international law vis-à-vis alleged perpetrators of crimes against humanity and genocide.[45] The 175 States other than Israel[46] that are party to the Convention against Torture also have an obligation *aut dedere aut judicare* in respect of individuals in their territory suspected of having violated the Convention.[47]

Furthermore, third States must investigate all war crimes, including those that do not constitute grave breaches, allegedly committed by their nationals, or other war crimes

[41] 2025 ICRC Commentary to GC IV (n 40) art 3 paras 783-786

[42] See, for example, Rome Statute of the ICC (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3 (ICC Statute) arts 25, 28

[43] See, for example, 'The Pinochet Precedent: How Victims Can Pursue Human Rights Criminals Abroad' (Human Rights Watch, 1 November 1998) <https://www.hrw.org/report/1998/11/01/pinochet-precedent/how-victims-can-pursue-human-rights-criminals-abroad>

[44] GC IV (n 11) art 146(2)

[45] See, for example, Draft Articles on Prevention and Punishment of Crimes Against Humanity (n 34) art 10; Draft Code of Crimes Against the Peace and Security of Mankind (n 39) arts 9, 17

[46] See n 32 above

[47] Convention Against Torture (n 33) arts 6-8. *Aut dedere aut judicare* is Latin for 'to extradite or to prosecute'

over which they have jurisdiction and, if appropriate, prosecute the suspects.[48] Finally, the 125 States that are party to the International Criminal Court (ICC)[49] must discharge their obligations pursuant to the Rome Statute, including as regards the extradition of defendants on their territory who are the subject of arrest warrants.[50] It is important to note that this accords with another option for criminal accountability set out in Genocide Convention[51] – trial 'by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction'.[52]

Obstacles and challenges

The wide range of obligations incumbent upon the parties to the conflict and third States notwithstanding, several layers of obstacles severely obstruct the possibility to hold the individual perpetrators of international crimes allegedly committed in the oPt and Israel accountable. First, while the IHL Centre has called for the creation of a forum for truth-telling and for all actors operating in Gaza to preserve and hand over possible evidence of international crimes,[53] **the prevailing reality stands in sharp contrast to such initial aspirations to establish an impartial record of events:** Palestinian journalists have been killed and injured at unprecedented levels, while Israel continues to bar international media, investigative mechanisms, and commissions of inquiry from entering the territory.[54]

Second, it bears noting that **Israel does not possess the adequate domestic framework to try alleged international crimes;** it has only specifically criminalised genocide in domestic

[48] CIHL (n 36) r 158

[49] 'The States Parties to the Rome Statute' (International Criminal Court) <https://asp.icc-cpi.int/states-parties>

[50] ICC Statute (n 42) pt 9

[51] See, for example, William A Schabas, 'Prosecution of Genocide by International Criminal Tribunals' in *Genocide in International Law: The Crime of Crimes* (3rd ed, CUP 2025)

[52] Genocide Convention (n 38) art VI

[53] Legal and Humanitarian Imperatives for the "Day After" in Gaza (n 28) 37

[54] See, for example, 'Shrinking Civic and Humanitarian Space in Israel-Palestine: A Brief Overview of Recent Developments' (IHL Centre, 18 May 2026) <https://www.ihlcentre.org/news/shrinking-civic-and-humanitarian-space-in-israel-palestine-a-brief-overview-of-recent-developments/>

law,[55] but not war crimes,[56] crimes against humanity, or the crime of torture,[57] for example – except if committed 'during the period of the Nazi régime' and the Second World War, as per the Nazis and Nazi Collaborators (Punishment) Law, 5710-1950.[58] Alleged perpetrators of war crimes are instead tried pursuant to 'ordinary' criminal offences in domestic law, for example 'murder, rape, theft, [and] assault'.[59] With respect to torture, Israel may argue that a 1999 ruling by its Supreme Court sitting as High Court of Justice outlawed such acts in domestic law.[60] However, this judgment included a 'carveout' that would exempt alleged perpetrators from responsibility in situations of purported 'necessity',[61] in direct contravention of the absolute prohibition of torture enshrined in international law, which applies in all circumstances, including armed conflict and emergencies.[62]

More importantly, **there is no political will to conduct the necessary investigations and prosecutions in practice, at least as far as alleged Israeli perpetrators are concerned.** Human rights organisations have long documented that the vast majority of reported incidents in the oPt involving the Israeli military or Israeli civilians do not lead to criminal

[55] This is by virtue of the Crime of Genocide (Prevention and Punishment) Law, 5710-1950

[56] See, for example, 'Perpetuating Impunity: Israel's Failure to Ensure Accountability for Violations of International Law in the Occupied Palestinian Territory' (International Commission of Jurists, April 2022) 6-7 <https://www.icj.org/wp-content/uploads/2022/04/PalestineIsrael-accountability-and-impunity-briefing-paper-2022-ENG.pdf>

[57] See, for example, Amjad Iraqi, 'A Law Banning Torture in Israel? Don't Hold Your Breath' *+972 Magazine* (Tel Aviv, 6 May 2016) <https://www.972mag.com/a-law-banning-torture-in-israel-dont-hold-your-breath/>; Rachel Stroumsa, 'A Law Criminalizing Torture: The First Step on a Long Path' *+972 Magazine* (Tel Aviv, 11 May 2016) <https://www.972mag.com/a-law-criminalizing-torture-the-first-step-on-a-long-path-2/>

[58] Nazis and Nazi Collaborators (Punishment) Law, 5710-1950 art 1

[59] The Public Commission to Examine the Maritime Incident of 31 May 2010, 'Israel's Mechanisms for Examining and Investigating Complaints and Claims of Violations of the Laws of Armed Conflict According to International Law' (Second Report - The Turkel Commission) (February 2013) 274 (fns omitted) <https://www.gov.il/BlobFolder/generalpage/downloads_eng1/en/ENG_turkel_eng_b1-474.pdf>

[60] HCJ 5100/94 *Public Committee Against Torture in Israel v Government of Israel* (6 September 1999)

[61] See, for example, 'Torture and Abuse in Interrogation' (B'Tselem, 11 November 2017) <https://www.btselem.org/torture>

[62] Convention Against Torture (n 33) art 2(2); GC IV (n 11) arts 27(1), 32; International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 art 7

proceedings.[63] What is more, over the past three years, dozens of disturbing videos have emerged – often shot by the alleged perpetrators themselves – which depict Israeli soldiers openly committing apparent war crimes.[64] Only a handful of indictments relating to Gaza have reportedly been filed.[65] A high-profile case involving the alleged torture and brutalisation of a Palestinian detainee at the Sde Teiman camp run by the Israeli military drew widespread public support for the suspects, including at the highest political levels;[66] the criminal charges were later withdrawn.[67] Meanwhile, those who seek to expose alleged misconduct – such as the filmmakers of the acclaimed documentary

[63] See, for example, 'Data Sheet: Law Enforcement Against Israeli Soldiers Suspected of Harming Palestinians and Their Property – Figures for 2018-2022' (Yesh Din, 4 February 2025) <https://www.yesh-din.org/en/data-sheet-law-enforcement-against-israeli-soldiers-suspected-of-harming-palestinians-and-their-property-figures-for-2018-2022/>; 'The General Staff Whitewashing Mechanism - The Israeli Law Enforcement System and Breaches of International Law and War Crimes in Gaza' (Yesh Din, 9 July 2024) <https://www.yesh-din.org/en/the-general-staff-whitewashing-mechanism-the-israeli-law-enforcement-system-and-breaches-of-international-law-and-war-crimes-in-gaza/>; 'Data Sheet: Law Enforcement on Israeli Civilians in the West Bank (Settler Violence) 2005-2025' (Yesh Din, 1 January 2026) <https://www.yesh-din.org/en/data-sheet-law-enforcement-on-israeli-civilians-in-the-west-bank-settler-violence-2005-2025/>

[64] See, for example, Merlyn Thomas, Jamie Ryan, and Paul Brown, 'Israel Troops Continue Posting Abuse Footage Despite Pledge to Act' *BBC Verify* (London, 17 May 2024) <https://www.bbc.com/news/world-middle-east-69020237>

[65] See, for example, Dan Owen, 'Israel's Military "Justice" System is Working Exactly as Intended' *+972 Magazine* (Tel Aviv, 3 September 2026) <https://www.972mag.com/israel-military-justice-war-crimes-impunity/>; Umer Zaib Khan, 'There Have Only Been 3 Criminal Indictments Against Israeli Soldiers for Gaza War Crimes in First 18 Months of War' *Drop Site* (Washington DC, 13 November 2025) <https://www.dropsitenews.com/p/israe-military-justice-indictments-internal-documents-impunity-gaza-war-crimes>

[66] See, for example, Sebastian Usher, 'Israeli Military's Ex-Top Lawyer Arrested Over Leak of Video Allegedly Showing Palestinian Detainee Abuse' *BBC News* (Jerusalem, 3 November 2025) <https://www.bbc.com/news/articles/cy0kpd97qqko>; CNN's International Investigations, Visuals Teams, 'Strapped Down, Blindfolded, Held in Diapers: Israeli Whistleblowers Detail Abuse of Palestinians in Shadowy Detention Center' *CNN* (Sde Teiman, Israel, updated 11 May 2024) <https://edition.cnn.com/2024/05/10/middleeast/israel-sde-teiman-detention-whistleblowers-intl-cmd>; Mark Lowen, 'Israeli Protesters Enter Army Base After Soldiers Held Over Gaza Detainee Abuse' *BBC News* (Jerusalem, 30 July 2024) <https://www.bbc.com/news/articles/c2q07kd3ld6o>

[67] Emma Graham-Harrison, 'Israeli Military Drops Charges Against Soldiers Accused of Gaza Detainee Abuse' *The Guardian* (Jerusalem, 12 March 2026) <https://www.theguardian.com/world/2026/mar/12/israeli-military-top-lawyer-drops-charges-soldiers-palestinian-detainee-abuse-gaza>

NAZA – are subjected to death threats, with Israeli Prime Minister Benjamin Netanyahu reportedly endeavouring to revoke their Israeli citizenship.[68]

The Israeli authorities have been pursuing a markedly different approach vis-à-vis alleged Palestinian perpetrators. Earlier this year, news articles emerged suggesting that Israel was mounting concerted efforts 'to kill or capture every Oct. 7 attacker'.[69] In addition to possible violations of the IHL rules on the conduct of hostilities in Israeli attacks allegedly carried out for this purpose,[70] a particularly concerning development in this regard was the Knesset's adoption, in May, of the Prosecution of Participants in the October 7 Massacre Events Law, 5786–2026, which envisages the establishment of a special military tribunal to try alleged perpetrators of the Hamas-led attacks.[71] It gives the court wide discretion to prosecute a range of offences under Israeli domestic law, including those that carry a mandatory death penalty; allows hearings to be held via video conference under certain conditions; provides for the live broadcast of parts of the proceedings; and does away with fundamental safeguards and fair trial guarantees, including established rules of procedure and evidence.[72] The law was passed with broad

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[68] Peter Beaumont, 'From Ovations in Venice to Death Threats in Israel: The Extreme Responses to NAZA Documentary' *The Guardian* (London, 19 September 2026) <https://www.theguardian.com/film/2026/sep/19/ovations-venice-death-threats-israel-extreme-responses-to-naza-documentary>; Lorenzo Tondo, 'Netanyahu Seeks to Strip Citizenship from Israelis as Threats to NAZA Film Directors Intensify' *The Guardian* (Jerusalem, 16 September 2026) <https://www.theguardian.com/world/2026/sep/16/threats-against-israeli-directors-gaza-documentary-naza>

[69] Dov Lieber, 'Inside Israel's High-Tech Campaign to Kill or Capture Every Oct. 7 Attacker' *The Wall Street Journal* (New York, 20 May 2026) <https://www.wsj.com/world/middle-east/israel-gaza-ceasefire-attacks-55c889b7>

[70] See, for example, Michael Schmitt and Ryan Goodman, '"Hunting" the October 7 Attackers: What the Law of Armed Conflict Permits – and What It Doesn't' (Just Security, 1 June 2026) <https://www.justsecurity.org/140626/israel-nili-hamas-targeted-killing/>

[71] Prosecution of Participants in the October 7, 2023 Massacre Events (Shemini Atzeret Massacre) Bill, 5786–2026 (unofficial translation by the Public Committee Against Torture in Israel) art 3 <https://stoptorture.org.il/wp-content/uploads/2026/05/2026-05-11-Oct.-7th-Indictments-Show-Trials-bill-knesset-final-readings-Eng.pdf>

[72] See, for example, 'Israel's Proposed Special Tribunal Law — Grave Concerns for the Rule of Law, Due Process, and the Death Penalty Against Palestinians' (HaMoked, Public Committee Against Torture in Israel, and Adalah, 11 May 2026) <Tribunal_Bill_Briefing_Paper_Adalah_PCATI_HaMoked.pdf>; Sari Bashi, 'Israel's Death Penalty Drive Enters Next Stage with Oct. 7 Military Tribunal' *+972 Magazine* (Tel Aviv, 21 May 2026) <https://www.972mag.com/israel-death-penalty-military-tribunal/>; Smadar Ben-Natan, 'Israel's Military Ad-hoc Court for October 7: Abdicating Truth and Justice' (EJIL:Talk!, 22 June

bipartisan support from across the political spectrum: all Knesset members in attendance voted in favour of its adoption.[73] Commentators have expressed grave concerns that proceedings conducted by this tribunal would amount to 'political show trials', with executions a foregone conclusion.[74] The widely reported torture and ill-treatment of Palestinian detainees further reinforces such concerns.[75]

Hamas, for its part, is also very unlikely to hold the alleged perpetrators of the 7 October 2023 attacks accountable, who went to some lengths to produce and disseminate audiovisual documentation of themselves in the commission of acts constituting international crimes.[76] In addition, there are longstanding concerns about lack of due process in proceedings involving the de facto authorities in Gaza. Human rights organisations have documented summary executions as well as the torture and ill-treatment of suspects.[77]

Ways forward and select recommendations

Given the unwillingness of the parties to the conflict to investigate and, where necessary, prosecute alleged international crimes in full compliance with fair trial standards and humane treatment guarantees, **the role of third States is crucial to ensure a modicum of accountability.**

2026) <https://www.ejiltalk.org/israels-military-ad-hoc-court-for-october-7-abdicating-truth-and-justice/>

[73] Peter Beaumont and Agencies, 'Israeli MPs Back Special Tribunal with Death Penalty Powers for Alleged 7 October Attackers' *The Guardian* (London, 12 May 2026) <https://www.theguardian.com/world/2026/may/12/israel-special-tribunal-death-penalty-7-october-attack>

[74] Smadar Ben-Natan (n 72)

[75] See, for example, B'Tselem (n 17)

[76] See, for example, Legal Analysis of the Initial Stages of the 2023 Hostilities in Israel and Gaza (n 6) 27-35; Human Rights Watch (n 6)

[77] See, for example, '"Strangling Necks": Abductions, Torture and Summary Killings of Palestinians by Hamas Forces During the 2014 Gaza/Israel Conflict' (Amnesty International, May 2015) <https://www.amnesty.org/en/documents/mde21/1643/2015/en/>; 'Palestine: Hamas Must Stamp Out Extrajudicial Executions and Ensure Justice for Victims' (Amnesty International, 21 August 2026) <https://www.amnesty.org/en/latest/news/2026/08/palestine-hamas-must-stamp-out-extrajudicial-executions-and-ensure-justice-for-victims/>; 'Gaza Strip: Hamas Executes Three as Death Penalty Resumes' *BBC News* (London, 31 May 2016) <https://www.bbc.com/news/world-middle-east-36415503>

Further to commendable steps already taken by several States, including structured probes in Spain and Canada,[78] the IHL Centre calls upon all States to scale up and intensify efforts **to carry out criminal investigations and, if appropriate, conduct prosecutions,** including of their nationals and on the basis of universal jurisdiction.[79] Transnational cooperation – such as the joint German-French investigative unit for Syria[80] – is envisaged by several legal authorities and may provide a constructive way forward.[81] For this purpose, States could also consider establishing, as part of their membership in the Human Rights Council or the United Nations General Assembly, a **complementary accountability mechanism** with a robust mandate and resources to identify alleged perpetrators of international crimes and to assist national prosecutorial authorities.[82]

Furthermore, it bears noting that almost two years have passed since **Pre-Trial Chamber I of the ICC issued arrest warrants** for Netanyahu and former Israeli Defence Minister Yoav Gallant for alleged war crimes and crimes against humanity[83] (a warrant for Mohammed Deif, the former head of Hamas' military wing, was withdrawn following confirmation of

[78] See, for example, 'Justice for Gaza: Who is Doing What?' (Justice Info) <https://www.justiceinfo.net/en/151753-justice-for-gaza-who-is-doing-what.html>; 'Legal Proceedings Relating to Israel and the oPt' (IHL Centre) <https://www.ihlcentre.org/jerusalem/proceedings-before-international-courts-relating-to-israel-and-the-opt/>

[79] See, for example, 'What is Universal Jurisdiction?' (TRIAL International) <https://trialinternational.org/topics-post/universal-jurisdiction/>

[80] See, for example, 'Catherine Marchi-Uhel: A Strong Signal to Those Committing Crimes in Syria' (Justice Info, 25 January 2019) <https://www.justiceinfo.net/en/40107-catherine-marchi-uhel-a-strong-signal-to-those-committing-crimes-in-syria.html>

[81] See, for example, Draft Articles on Prevention and Punishment of Crimes Against Humanity (n 34) art 14; Convention Against Torture (n 33) art 9; Genocide Convention (n 38) art VIII

[82] The IHL Centre has called for this in Legal and Humanitarian Imperatives for the "Day After" in Gaza (n 28) 37. See Federica d'Alessandra, 'UN Accountability Mandates in International Justice' (2023) 21 J Int'l Crim Justice 551. One example of such a mechanism is the 'International, Impartial and Independent Mechanism to assist in the investigation and prosecution of persons responsible for the most serious crimes under International Law committed in the Syrian Arab Republic since March 2011' (IIIM)

[83] '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' (International Criminal Court, 21 November 2024) <https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-rejects-state-israels-challenges>. See 'ICC Arrest Warrants Against Israeli and Hamas Officials' (IHL Centre, 22 November 2024) <https://www.ihlcentre.org/news/icc-arrest-warrants-against-israeli-and-hamas-officials/>

his death[84]). To date, no defendant has been handed over to The Hague. At the same time, amidst sanctions on ICC judges and officials[85] as well as Palestinian NGOs that cooperate with it,[86] followed more recently by US Secretary of State Marco Rubio's announcement of a 'whole of government campaign to dismantle' an alleged 'threat posed by the ICC',[87] **the Court is facing an unprecedented moment of crisis.** Some 80 years after the adoption of the Nuremberg Principles, and almost 25 years into the ICC's existence, States must spare no effort to defend the world's only permanent international criminal court.

Finally, it must be recalled that legal accountability is only a part of the picture: **truth-telling, transitional justice, and reconciliation** provide complementary processes to restore trust and rebuild conflict-affected societies.[88] The international community has already abandoned the victims and survivors of international crimes once, by failing to prevent their ordeal. It should not fail them again.

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[84] 'Situation in the State of Palestine: ICC Pre-Trial Chamber I Issues Warrant of Arrest for Mohammed Diab Ibrahim Al-Masri (Deif)' (International Criminal Court, 21 November 2024) <https://www.icc-cpi.int/news/situation-state-palestine-icc-pre-trial-chamber-i-issues-warrant-arrest-mohammed-diab-ibrahim>

[85] Office of the Spokesman, 'Imposing Sanctions in Response to the ICC's Illegitimate Actions Targeting the United States and Israel' (US Department of State, 5 June 2025) <https://www.state.gov/imposing-sanctions-in-response-to-the-iccs-illegitimate-actions-targeting-the-united-states-and-israel/>; Marco Rubio, Secretary of State, 'Sanctioning ICC Judges Directly Engaged in the Illegitimate Targeting of Israel' (US Department of State, 18 December 2025) <https://www.state.gov/releases/office-of-the-spokesperson/2025/12/sanctioning-icc-judges-directly-engaged-in-the-illegitimate-targeting-of-israel/>; Office of the Spokesman, 'Imposing Further Sanctions in Response to the ICC's Ongoing Threat to Americans and Israelis' (US Department of State, 20 August 2025) <https://www.state.gov/releases/office-of-the-spokesperson/2025/08/imposing-further-sanctions-in-response-to-the-iccs-ongoing-threat-to-americans-and-israelis/>

[86] Marco Rubio, Secretary of State, 'Sanctioning Foreign NGOs Directly Engaged in ICC's Illegitimate Targeting of Israel' (US Department of State, 4 September 2025) <https://www.state.gov/releases/office-of-the-spokesperson/2025/09/sanctioning-foreign-ngos-directly-engaged-in-iccs-illegitimate-targeting-of-israel/>

[87] Office of the Spokesman, 'State Department Launches Campaign to Dismantle International Criminal Court's Threat to American Sovereignty' (US Department of State, 13 July 2026) <https://www.state.gov/releases/office-of-the-spokesperson/2026/07/state-department-launches-campaign-to-dismantle-international-criminal-courts-threat-to-american-sovereignty>

[88] See, for example, Anja Seibert-Fohr, 'Transitional Justice in Post-Conflict Situations' (last updated May 2019) MPIL <https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e419>

Published by

International Humanitarian Law Centre

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