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- HOME GOAL 1 GOAL 2 GOAL 3 GOAL 4 GOAL 5 GOAL 6 GOAL 7
- ABOUT US ▼ CONTACT ARCHIVE SEARCH ▼ LANGUAGES ▼ GOAL 8 GOAL 9
- GOAL 10 GOAL 11 GOAL 12 GOAL 13+14+15 GOAL 16 GOAL 17 Sitemap



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Gaza Genocide? UN Chief Says International Court Has to Decide

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By Thalif Deen

UNITED NATIONS | 17 November 2023 (IDN) — Are the killings of thousands of Palestinian civilians in Gaza an act of genocide or “genocide in the making”?

According to a legal definition, genocide includes violent attacks with the specific intent to destroy, in whole or in part, a national, ethnic, racial, or religious group.

A Group of UN experts* say that grave violations committed by Israel against Palestinians in the aftermath of 7 October, particularly in Gaza, point to “a genocide in the making.”

In a [statement released on 16 November](#), the experts point out “the illustrated evidence of increasing genocidal incitement, overt intent to “destroy the Palestinian people under occupation”, loud calls for a ‘second Nakba’ in Gaza and the rest of the occupied Palestinian territory, and the use of powerful weaponry with inherently indiscriminate impacts, resulting in a colossal death toll and destruction of life-sustaining infrastructure.”

“Many of us already raised the alarm about the risk of genocide in Gaza,” the experts said. “We are deeply disturbed by the failure of governments to heed our call and to achieve an immediate ceasefire. We are also profoundly concerned about the support of certain governments for Israel’s strategy of warfare against the besieged population of Gaza, and the failure of the international system to mobilise to prevent genocide,” they said.

But UN Secretary-General António Guterres, whose forthright and critical comments on civilian killings in Gaza have prompted Israeli calls for his resignation, has taken a more cautious approach.

Asked about the UN experts’ statement on genocide, his Spokesperson Stephane Dujarric said November 17 these experts, all independent experts, are independent from the Secretary-General.

“On the issue of genocide, we are very clear on our position, which is that a genocide can only be labelled by a competent court. I think there’s a lot of debate going on. Our focus right now is on ensuring the respect of international humanitarian law, the protection of civilians, ensuring greater humanitarian access and continuing to advocate for a ceasefire, humanitarian ceasefire,” he said.

Asked about the credibility of the statement by the experts, Dujarric said: “People will have to assess the credibility of their work. It is not for the Secretary-General to comment or grade on the statements made by independent experts.”

“They are named by the Human Rights Council. The independent human rights experts are a very important part of the UN’s human rights architecture, but it is not for us to grade their work”, he added.

Meanwhile, the UN experts also point out that the bombardment and siege of Gaza have reportedly killed over 11,000 people, injured more than 27,000 and displaced 1.6 million persons since 7 October 2023, while thousands are still under the rubble.

Of those killed, about 41 per cent are children and 25 percent are women. On average, one child is killed and two are injured every 10 minutes during the war, turning Gaza into a “graveyard for children,” according to the UN Secretary-General.

Almost 200 medics, 102 UN staff, 41 journalists, frontline and human rights defenders, have also been killed, while dozens of families over five generations have been wiped out.

“This occurs amidst Israel’s tightening of its 16-year unlawful blockade of Gaza, which has prevented people from escaping and left them without food, water, medicine and fuel for weeks now, despite international appeals to provide access for critical humanitarian aid. As we previously said, intentional starvation amounts to a war crime,” the experts said.

They also noted that half of the civilian infrastructure in Gaza has been destroyed, including more than 40,000 housing units, as well as hospitals, schools, mosques, bakeries, water pipes, sewage and electricity networks, in a way that threatens to make the continuation of Palestinian life in Gaza impossible.

“The reality in Gaza, with its unbearable pain and trauma on the survivors, is a catastrophe of enormous proportions,” the experts said.

“Such egregious violations cannot be justified in the name of self-defense after attacks by Hamas on 7 October, which we have condemned in the strongest possible terms,” the experts said.

“Israel remains the occupying power in the occupied Palestinian territory, which also includes the Gaza Strip, and therefore cannot wage a war against the population under its belligerent occupation,” they said.

“In order to be legitimate, Israel’s response must be strictly within the framework of international humanitarian law,” the UN experts said. “The presence of underground tunnels in parts of Gaza does not eliminate the civilian status of individuals and infrastructure that cannot be directly targeted nor suffer disproportionately,” they said.

The experts also raised the alarm about the escalation of violence against Palestinians in the occupied West Bank, by soldiers and armed settlers. Since 7 October 2023, at least 190 Palestinians have been killed, more than 2,700 injured, and over 1,100 individuals displaced in the occupied West Bank.

On 9 November, Israeli forces also bombed, for the second time, the Jenin refugee camp with heavy artillery and airstrikes, killing at least 14 Palestinians. The increasingly coercive environment has also led to forcible displacement of several communities of pastoralists and Bedouin People in the Jordan Valley and south of the Hebron Hills.

“We are deeply distressed at the failure of Israel to agree to – and the unwillingness of the international community to press more decisively for – an immediate ceasefire. The failure to urgently implement a ceasefire risks this situation spiralling towards a genocide conducted with 21st century means and methods of warfare,” the experts warned.

They also expressed alarm over discernibly genocidal and dehumanising rhetoric coming from senior Israeli government officials, as well as some professional groups and public figures, calling for the “total destruction”, and “erasure” of Gaza, the need to “finish them all” and force Palestinians from the West Bank and east Jerusalem into Jordan. The experts warned that Israel has demonstrated it has the military capacity to implement such criminal intentions.

“That is why our early warning must not be ignored,” the experts said.

“The international community has an obligation to prevent atrocity crimes, including genocide, and should immediately consider all diplomatic, political and economic measures to that end,” the experts said. They urged immediate action by UN Member States and the UN system as a whole.

In the short-term, the experts reiterated their call to Israel and Hamas to implement an immediate ceasefire and:

- Allow unimpeded delivery of desperately needed humanitarian aid to the people in Gaza;
- Ensure the unconditional, safe and secure release of the hostages taken by Hamas;

- Ensure that Palestinians arbitrarily detained by Israel are released immediately;
 - – Open humanitarian corridors toward the West Bank, east Jerusalem and Israel, especially for those that have been most affected by this war, the sick, persons with disabilities, older persons, pregnant women and children.
 - They also recommended:
 - The deployment of an international protective presence in the occupied Palestinian territory under the supervision of the UN;
 - Collaboration of all parties with the Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, and the Prosecutor of the International Criminal Court on the investigation opened in March 2021, as well as crimes arising from the recent events, underlining that the crimes committed today are partly due to a lack of deterrence and continued impunity;
 - Implement an arms embargo on all warring parties;
 - Address the underlying causes of the conflict by ending the Israeli occupation of the Palestinian territory.

**The Group of UN experts include: Francesca Albanese, Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967; Margaret Satterthwaite, Special Rapporteur on the Independence of Judges and Lawyers; Dorothy Estrada Tanck (Chair), Claudia Flores, Ivana Krstić, Haina Lu, and Laura Nyirinkindi, Working group on discrimination against women and girls; Surya Deva, Special Rapporteur on the right to development; Ravindran Daniel (Chair-Rapporteur), Sorcha MacLeod, Chris Kwaja, Jovana Jezdimirovic Ranito, Carlos Salazar Couto, Working Group on the use of mercenaries; Barbara G. Reynolds (Chair), Bina D’Costa, Dominique Day, Catherine Namakula, Working Group of Experts on People of African Descent; Pedro Arrojo-Agudo, Special Rapporteur on the human rights to safe drinking water and sanitation; Olivier De*

Schutter, *Special Rapporteur on extreme poverty and human rights*; Farida Shaheed, *Special Rapporteur on the right to education*; Damilola Olawuyi (Chairperson), Robert McCorquodale (Vice-Chairperson), Elżbieta Karska, Fernanda Hopenhaym, and Pichamon Yeophantong, *Working Group on the issue of human rights and transnational corporations and other business enterprises*; Siobhán Mullally, *Special Rapporteur on trafficking in persons, especially women and children*; Livingstone Sewanyana, *Independent Expert on the promotion of a democratic and equitable international order*; Balakrishnan Rajagopal, *Special Rapporteur on the right to adequate housing*; Ashwini K.P. *Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance*; Paula Gaviria Betancur, *Special Rapporteur on the human rights of internally displaced persons*; Mary Lawlor, *Special Rapporteur on the situation of human rights defenders*; Claudia Mahler, *Independent Expert on the enjoyment of all human rights by older persons*; Ben Saul, *Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*; Irene Khan *Special Rapporteur for Freedom of Opinion and Expression* [IDN-InDepthNews]

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