

**OPERATION
SWORDS OF IRON**

9TH NOVEMBER, 2023

FAQS

INTERNATIONAL LAW AND OPERATION SWORDS OF IRON

ISRAEL'S RESPONSE TO THE HAMAS MASSACRE OF OCTOBER 7TH



THE INTERNATIONAL
LEGAL FORUM



WORLD ZIONIST ORGANIZATION
The Department for Combating Antisemitism
& Enhancing Resilience

Table of Contents

Introduction	1
Who is Hamas?	2
Does Israel have right to self-defense under law?	3
Have Israel's actions been 'proportionate'?	4
Can Israel target civilian targets?	6
What is the legal status regarding Israel's purported 'siege' of the Gaza strip?	8
Is Israel permitted to cut off electricity, fuel, food or water to Gaza?	10
Are Israel's warnings for Gazan civilians to evacuate legal?	13
What are the major crimes Hamas is committing?	16
What is the law concerning Hamas' use of human shields?	17
What is the law regarding the taking of hostages?	19

Introduction

On the morning of 7th October, 2023, thousands of Hamas terrorists infiltrated southern Israel from Gaza and massacred over 1,400 people, while indiscriminately firing over 9,000 rockets and taking at least 240 people, including children, hostage*.

The atrocities carried out by Hamas terrorists are without precedent in their savagery and barbarism, a carnage and massacre against the Jewish people the likes of which has not been seen since the Holocaust.

From mass murder, to rape, torture, mutilation and taking of hostages, every imaginable international law was completely violated by Hamas, including war crimes, attempted genocide and crimes against humanity.

Hamas' actions were universally condemned, including by the United States, Europe and many leaders around the world.

This document will provide a brief overview and seek to answer some of the most commonly asked legal questions, concerning the actions of Hamas and Israel's response to the massacre of October 7th.

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* This data is current as at the date of publication, with information constantly being updated.

1 Who is Hamas?

Hamas is an Iranian-backed internationally recognized terrorist organization, whose ultimate goal is to annihilate the State of Israel and to establish an Islamic state in its place.

The Hamas Charter – the organization's manifesto – is an antisemitic document that traffics in anti-Jewish conspiracy theories and explicitly calls for the genocide of world Jewry.

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Hamas has been internationally recognized as a terrorist organization by the United States, Canada, European Union, UK, Australia, Japan and many other nations.

Israel left Gaza entirely during the 'Disengagement' in 2005. Hamas ultimately seized control of the Gaza Strip from the Palestinian Authority in a violent military coup in 2007 and has brutally controlled the strip ever since, which it continues to use as a platform for launching deadly terror attacks against Israel, as evidenced by the October 7th massacre.

Furthermore, according to various reports, the Iranian regime helped Hamas plot and execute the massacre in October, which Ayatollah Khamenei has since praised repeatedly and vowed further attacks.

2 Does Israel have the right to self-defense under law?

Israel's right to self-defense following the unprecedented massacre perpetrated by Hamas terrorists on October 7th, is unquestionable and indisputable.

In response to these atrocities committed by Hamas and the war initiated by terror group, Israel launched Operation 'Swords of Iron', with three explicit goals: Restore security to Israel, eliminate Hamas, and bring back the hostages.

International law recognizes the inalienable right of states to use force in self-defense, both in conventional and customary international law. Article 51 of the UN Charter also clearly states: "Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations."

Israel is both entitled and indeed obligated under international law, to exercise this right until such time as Hamas no longer poses a threat and all hostages are released.

“Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations.”

Article 51, UN Charter

3 Have Israel's actions been 'proportionate'?

There is perhaps no principle in international law that is as reflexively used to castigate Israel and charge it with war crimes than that of "proportionality", each time the Jewish state refuses to surrender and responds to those who wage terror against her.

...the doctrine of proportionality requires that in the event that there should be any loss of civilian life, it mustn't exceed the potential military advantage to be gained from such a strike or action.

Firstly, it must be dismissed that proportionality is measured by some kind of perverse equivalence in civilian deaths, which it is not. There is nothing that could ever be deemed 'proportionate' in response to children being massacred, raped, burnt and decapitated.

Under International Humanitarian Law, also referred to as the Laws of War, as well as the Rome Statute and Article 51(5)(b) of the First Additional Protocol to the Geneva Conventions of 1977, the doctrine of proportionality requires that in the event that there should be any loss of civilian life, it mustn't exceed the potential military advantage to be gained from such a strike or action.

In relation to Israel's current military operation, the goal is clear and stated — eliminating Hamas, a genocidal terrorist organization that seeks the country's destruction. To state the obvious, saving the lives of millions of your citizens from an attempted genocide is an entirely legitimate, legal and just military purpose by any measurement.

Israel is acting entirely proportionately and within the law against an enemy that seeks no less than its full destruction.

And in the fog of war against such an implacable enemy, the loss of civilian life is almost always inevitable. However, in this case, the fault lies entirely with Hamas, which is carrying out the triple war crime of hiding behind civilians in Gaza, while targeting civilians in Israel and seeking the annihilation of the Jewish state.

Hamas even sought to block the evacuation of Palestinians in Gaza by setting up roadblocks, confiscating car keys and reportedly even shooting those trying to flee.



Source: IDF Spokesperson's Unit

Notwithstanding, the Israeli Defense Forces have gone to extraordinary lengths, not seen in the history of modern warfare, to avoid civilian casualties. This includes providing civilians in Gaza ample warning and safe passage to evacuate, and at all times adhering to the principle of distinction in aiming only at Hamas military targets, so as to avoid and minimize civilian casualties.

Furthermore, the proportionality of operations are also examined by the IDF's Military Advocate General's Office, Israel's Attorney General and the relevant commanders on the ground, before being carried out. Israel's Supreme Court also has jurisdiction to exercise judicial oversight, including during hostilities.

Israel, therefore, is acting entirely proportionately and within the law against an enemy that seeks no less than its full destruction.

4 Can Israel target civilian targets?

Under International Humanitarian Law, as well as the Rome Statute, as a general rule, civilian sites such as hospitals, schools, places of worship and residential homes, receive special protected status, and therefore may not be targeted.

However, such places lose their protected status and become legitimate targets, when they are used for military operations, including weapons storage depots, firing rockets, placing attack tunnels and command centers, as Hamas repeatedly, systematically and unlawfully does, embedding its military assets within heavily populated civilian areas, and carries out their terror activities using its own civilians as human shield. Such actions by Hamas are, in and of themselves, gross violations of international humanitarian and customary law.



WATCH Hamas shooting from a hospital



SEE how Hamas turned a Mosque into a launching pad for rockets



NOTE how Hamas placed rocket launchers in a kids play area



WATCH IDF discover terror tunnel opening at a hospital



UNDERSTAND how Hamas turned Shifa hospital in Gaza into their main headquarters for military and terrorist activities

For example, Article 18 of the Fourth Geneva Convention of 1949 explicitly affords hospitals special protected status, however Article 19 clarifies that hospitals will lose such status if they should be used for military purposes.

The Rome Statute [Article 8(2)] makes it clear that intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, can be permissible, provided there is a military objectives.



Source: IDF Spokesperson Unit

Article 52(2) of the First Protocol to the Geneva Convention of 1949 further adds that a target is considered to be a military one if it is used for military purposes, where “objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization in the circumstances ruling at the time, offers a definite military advantage.”

By way of two case studies, in late October, the IDF struck in the area of Jabalia refugee camp in northern Gaza. However, the area had been turned into a ‘military command base’ by Hamas, with underground tunnels, a weapons production facility and rocket launch positions. Israel had also provided civilians with a warning for two weeks prior to evacuate, as it would target the area.

Likewise, in early November, the IDF struck an ambulance outside Gaza’s Al-Shifa Hospital, the largest medical facility in the enclave, which resulted in a number of civilians killed and wounded. However, that action was only following concrete evidence that Hamas was using the ambulance to transport their terrorists and weapons.

In both examples above, Israel was fully justified under international law in attacking those sites, on the basis that it was Hamas which had turned them into military targets and therefore Hamas that also bears full responsibility and criminal culpability for any casualties and damage.

5 What is the legal status regarding Israel's purported 'siege' of the Gaza strip?

Many detractors of Israel are claiming that the Jewish state has enforced a 'siege' of the Gaza Strip, which amounts to 'collective punishment' of the civilian population of Gaza. This is both false and a gross distortion of the facts.

A siege is defined in international customary law as a complete enclosure or encircling of an enemy territory, so as to entirely block off all essential goods and supplies from entering the territory.

Although imposing sieges during times of war, are considered lawful military tactics, they must not starve the local civilian population (see [Article 54 of the 1977 Additional Protocol I to the Geneva Convention](#) and [Article 14 of the Additional Protocol II to the 1949 Geneva Conventions](#)).

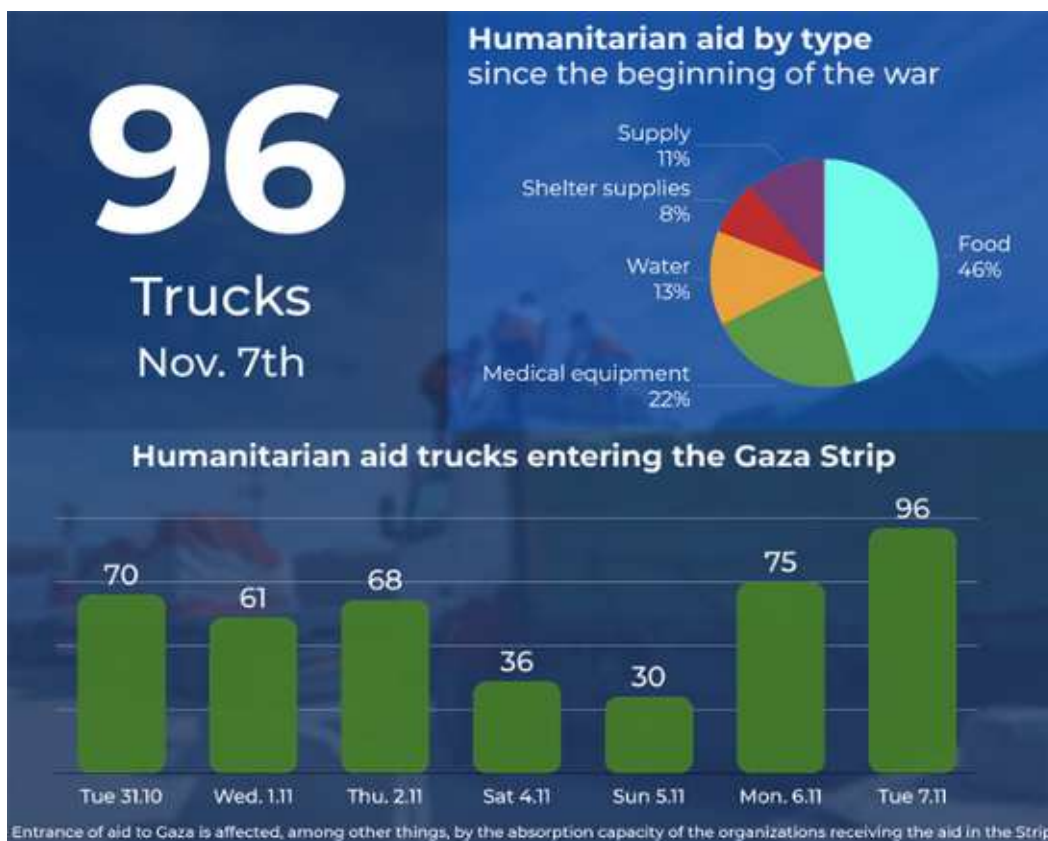


...given that the Gaza Strip also shares a border with Egypt, Israel is not capable of implementing, nor does it meet the criterial of enforcing a siege under law.

First, it must be noted that given that the Gaza Strip also shares a border with Egypt, Israel is not capable of implementing, nor does it meet the criterion of enforcing a siege under law.

In any case, Israel is fully entitled under international law to maintain a blockade of the borders it controls with Gaza due to military necessity, so as to defend its citizens from attacks by Hamas and ensure the terror group, which seeks the Jewish state's destruction, does not receive supplies or smuggle weapons that can be used to conduct further attacks.

Moreover, there continues to be a steady supply of humanitarian aid and food entering Gaza through the Rafah Crossing, which Israel is coordinating with Egypt, the United States and the United Nations.



Source: Coordinator of Government Activities in the Territories (COGAT)

Accordingly, there is no starvation in Gaza, which albeit has extreme levels of poverty, this factor is due more to the fact that Hamas continues to funnel basic supplies such as fuel and aid intended for the civilians in Gaza, for use for military purposes, such as powering their tunnels and providing for Hamas terrorist fighters, at the expense of the civilian population.

6 Is Israel permitted to cut off electricity, fuel, food or water to Gaza?

Although Israel is not obliged to provide humanitarian aid, such as food, water, and medicine to Gaza, under customary international law, nor is it permitted to unreasonably hamper or prevent the entry of such items.

Throughout the period following the Hamas attacks, Israel has continued to allow inspected humanitarian aid to reach Gaza, including at least 700 trucks of supplies, through the Rafah crossing with Egypt, and in coordination with the United States, Egyptian authorities and the United Nations.



Trucks entering Rafah Crossing, carrying humanitarian aid, including food, medical supplies and water.

Source: Coordinator of Government Activities in the Territories (COGAT)

Although on October 9th, immediately in the wake of the Hamas massacre two days prior, Israel cut off the water pipe it operates into Gaza, it is important to note this amounts only to approximately 7-9% of the Gaza Strip's water supply during peacetime, with 90% of the water supply provided by Gaza's internal infrastructure of water wells and desalination plants. In any event, Israel has fully reopened its two water lines of supply into Gaza, providing millions of liters of water each day and ensuring there is sufficient water overall being supplied to Gaza.

It is important to note also, despite Israel's best efforts to supply water into Gaza, Hamas has been turning water pipelines into rockets, for launching at Israel, while placing many of their launchers near desalination plants, including those established by UN agencies, like UNICEF, with the support of international funding.



...international humanitarian law does not oblige one party to a conflict from providing the other with supplies that can be used for military purposes, and in Hamas' case, continuing to carry out terrorist acts.

With respect to the provision of electricity and fuel, the situation is different, given these are also indispensable resources necessary for Hamas in order to maintain their military capabilities, such as operating their tunnels, firing of rockets and communications. Prior to the war, Israel provided approximately half the electricity supply for Gaza. However, international humanitarian law does not oblige one party to a conflict from providing the other with supplies that can be used for military purposes, and in Hamas' case, continuing to carry out terrorist acts.

In response to those who note that the civilian population of Gaza requires the steady supply of electricity and fuel for basic functioning, it is important to note that Hamas continues to siphon these supplies, and others intended for the civilian population, in order to power their terror tunnels, ongoing rocket fire and electricity for the purposes of communicating between fighters.



LISTEN to a Gazan describe how Hamas is controlling fuel supply to hospitals



LISTEN to Hamas terrorists discussing how they are going to divert fuel

For example, it is estimated that Hamas has stolen as much as five hundred million liters of fuel from the people of Gaza, in order to operate its terror tunnels and rocket launchers, which even UNRWA had corroborated. Such amount of fuel would be enough to power all the hospitals in Gaza, multiple times over. Hamas fire and rocket attacks have also decimated at least 9 out of 10 electricity lines coming from Israel, which supply about 50% of the electricity in Gaza, with the rest being produced locally.

7 Are Israel's warnings for Gazan civilians to evacuate legal?

Throughout this campaign, Israel has issued repeated warnings for civilians in Gaza to evacuate defined areas, ahead of impending strikes. Many critics have charged that this amounts to 'forced displacement', which is a violation of international humanitarian law and a crime against humanity, pursuant to [Article 7 of the Rome Statute](#). However, this is highly erroneous and a gross misinterpretation of both the law and Israel's intentions in providing such warnings.



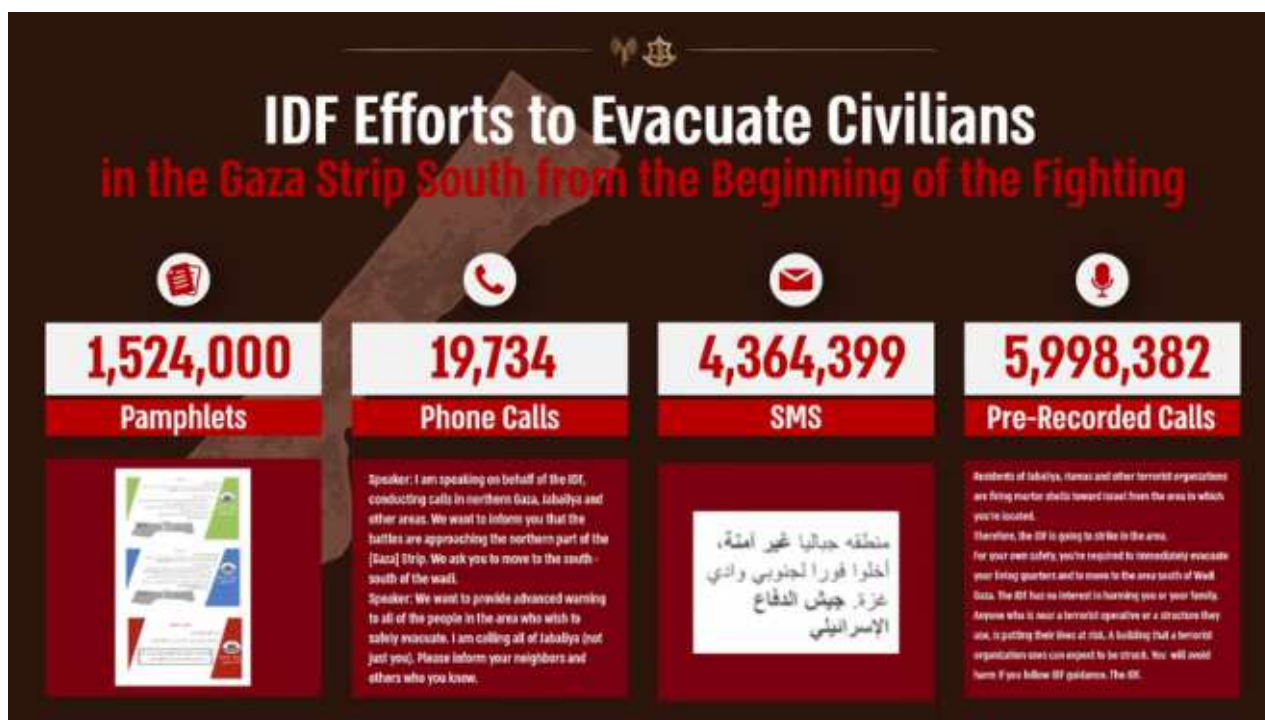
Letters from IDF to civilians in northern Gaza, suggesting to evacuate south

Source: IDF Spokesperson's Unit

Firstly, it must be made clear, that Israel's actions to do not amount to 'orders', as required pursuant to [Rule 129 of the ICRC International Humanitarian Law Database](#). It has no power or capacity to issue 'orders' or compel civilians in Gaza to take a certain action. Gaza is controlled entirely by the Hamas terror organization and Israel's actions therefore are more appropriately deemed as warnings, for the benefit of the civilian population of Gaza, intended to avoid or minimize civilian casualties.

In any event, temporary forced displacement is still permissible under international law, including pursuant to Article 17 of the Additional Protocol II of the Geneva Convention of 1949, where “the security of the civilians involved or imperative military reasons so demand.” A similar exception is contained in Article 49 of the Fourth Geneva Convention.

In this case, it must be stressed even though Israel is not ordering or forcing civilians in Gaza to move, but merely advising them, even if it were, it is being done solely for the purposes of imperative military necessity in order to avoid or minimize potential harm or injury to them and bearing in mind that Hamas has embedded rockets, tunnels and military operations within civilian infrastructure.



Source: IDF Spokesperson Unit

Since the beginning of the operation, the IDF have dropped some 1.5 million flyers to evacuate, made nearly 20,000 personal calls to local residents (listen here to a conversation with a resident in Jabaliya, in northern Gaza), sent nearly 6 million automated calls (listen here to an automated call) and sent 4.3 million text messages to resident in Gaza.

In fact, Article 57 of the 1977 Additional Protocol I to the Geneva Convention compels Israel to provide “effective advance warning” of attacks which “may affect the civilian population, unless circumstances do not permit.” Additionally, Article 58 of Additional Protocol I states that “the parties to the conflict shall, to the maximum extent feasible, without prejudice to Article 49 of the Fourth Convention, endeavor to remove the civilian population, individual civilians and civilian objects under their control from the vicinity of military objectives.”

In this case, by calling on Gazan civilians to evacuate, in addition to taking further measures, such as aiming only at military targets and taking into account considerations of proportionality of any such attack, Israel has fully discharged its obligations under international law, and in doing so, has saved countless Palestinian civilian lives.

Nonetheless, and as noted above, the IDF continues to go to unprecedented lengths, not witnessed in the history of modern warfare, to avoid civilian casualties, including use of precision weapons, aborting legitimate military strikes when there is grave risk to civilians casualties and providing numerous warnings in advance of strikes.

...by calling on Gazan civilians to evacuate, in addition to taking further measures, Israel has fully discharged its obligations under international law, and in doing so, has saved countless Palestinian civilian lives.

Notwithstanding Israel’s efforts to provide such warning, as well as safe passage to evacuate, Hamas is continuing to use civilians as human shields and preventing their safe evacuation, including through road-blocks, confiscating car keys and other intimidatory and violent tactics. It is Hamas therefore that continues to bear the responsibility for any ensuing casualties.

In the meantime, it is estimated that over 200,000 Israelis have been internally displaced, as a result of rocket fire by Hamas and Hezbollah, and the events of the massacre of October 7th.

8 What are the major crimes Hamas are committing?

In carrying out the barbaric, heinous and sadistic atrocities of October 7th, Hamas has breached every conceivable norm of international law.

There can be no equivocation, none whatsoever, that their actions amount to War Crimes, Attempted Genocide and Crimes Against Humanity, as defined under the Rome Statute, the Geneva Conventions, Customary International Law and Rules of War, including but not limited to:

- Intentionally directing attacks against a civilian population;
- Mass murder and summary executions;
- Taking of hostages;
- Torture;
- Rape;
- Willfully causing great suffering;
- Subjecting civilians to physical mutilation;
- Committing outrages upon personal dignity, in particular, humiliating and degrading treatment;
- Pillaging; and
- Use of civilians as human shields.



Bloodstained room in Kibbutz Be'eri, Southern Israel.

In short, what Hamas is carrying out is a triple war crime: using civilians in Gaza as human shields to attack civilians in Israel, while seeking the destruction of the Jewish state.



In carrying out the barbaric, heinous and sadistic atrocities of October 7th, Hamas has breached every conceivable norm of **international law.**

9 What is the law concerning Hamas' use of human shields?

Hamas commonly use civilians in Gaza as human shields, in gross violation of customary international law, in order to protect their combatants, their military operations (eg. by hiding out of hospitals, Mosques, or near schools and inside residential neighborhoods) and for propaganda purposes to perversely maximize civilian casualties and cynically shift the blame on Israel.



The use of human shields is strictly forbidden under international law.

As British Prime Minister Rishi Sunak noted, “the terrorists murder Israeli children, then run and hide behind Palestinian children,” echoing US President Joe Biden’s observation that “Hamas offers nothing but terror and bloodshed with no regard to who pays the price” and that “they use Palestinian civilians as human shields.” Likewise, European Commission President Ursula von der Leyen has stated that Hamas is “constantly” taking civilians as shields.

In an October 24th, 2023, meeting of the UN Security Council, the German Foreign Minister Annalena Baerbock cautioned the international community that “We must not be fooled by Hamas’ playbook: they are playing with human suffering, using women & children as human shields, hiding in supermarkets and hospitals.”

The Israel Defense Forces (IDF) have also provided ample evidence of Hamas using human shields and embedding themselves in civilian infrastructure sites, as can be seen here and here.

The use of human shields is strictly forbidden under international law, including customary international law doctrines.

For example, Article 8 of the Rome Statute of the International Criminal Court clearly states that “utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations” is considered a war crime.

Likewise, Article 51(7) of the 1977 Protocols to the Geneva Convention is explicit that:

“The presence or movements of the civilian population or individual civilians shall not be used to render certain points or areas immune from military operations, in particular in attempts to shield military objectives from attacks or to shield, favour or impede military operations. The Parties to the conflict shall not direct the movement of the civilian population or individual civilians in order to attempt to shield military objectives from attacks or to shield military operations.”

The United States Department of Defense ‘Law of War’ Manual also makes clear that:

“Parties to a conflict may not use the presence or movement of protected persons or objects: (1) to attempt to make certain points or areas immune from seizure or attack; (2) to shield military objectives from attack; or (3) otherwise to shield or favor one’s own military operations or to impede the adversary’s military operations.”

Nonetheless, and as noted above, the IDF continues to go to unprecedented lengths, not witnessed in the history of modern warfare, to avoid civilian casualties, including use of precision weapons, aborting legitimate military strikes when there is grave risk to civilians casualties and providing numerous warnings in advance of strikes.

Ultimately, international law recognizes that the party that uses human shields or embeds themselves in civilian areas, in this case Hamas, in an attempt to shield military objectives from attack, assumes responsibility for any injury or harm caused to the civilians, especially in circumstances where Israel goes to utmost lengths to avoid and minimize civilian casualties.

10 What is the law regarding the taking of hostages?

As at the publication of this document, there are confirmed at least 241 hostages being held captive by Hamas in Gaza, including at least 30 children.

It is important to underscore that these are not prisoners of war, but hostages, and that the taking of hostages is considered a war crime and gross violation of international law, including under Article 8(2) of the Rome Statute, the International Convention Against the Taking of Hostages (1979), and Customary International Law.



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Pending the release of the hostages, Hamas must treat each one with dignity, provide necessary medical care and information as to their whereabouts and condition. Thus far, Hamas has violated every single one of these elements. Furthermore, the releasing of videos of some of the hostages, in manner in which they have been made, clearly showing the degrading manner in which Hamas are treating the hostages and engaging in psychological warfare, further violations of the Rules of War and International Humanitarian Law.

Thus far, the International Committee of the Red Cross (ICRC), has failed to make any contact with the hostages or provide information as to their condition. The fact that the ICRC are dealing with a ruthless enemy that does not abide by any rules, is not an excuse. Nor is it enough to merely 'call' for their release. The ICRC have a legal duty and obligation, including under their own mandate, to demand and take every action possible to both obtain access to the hostages and demand their immediate release.

The Red Cross abandoned the Jewish people once before during the Holocaust. They cannot do so again. The perpetrators might be different, but Hamas is no different to the Nazis or modern-day ISIS, in both their agenda and methods.



THE INTERNATIONAL
LEGAL FORUM

The International Legal Forum (ILF) is an independent, Israel-based NGO and pro-active global network of over 4,000 lawyers and activists in 40 countries, dedicated to standing up for Israel and combating terror, BDS, and antisemitism in the international legal arena.



WORLD ZIONIST ORGANIZATION
The Department for Combating Antisemitism
& Enhancing Resilience

The World Zionist Organization, or WZO, is a non-governmental organization that promotes Zionism. It was founded as the Zionist Organization at the initiative of Theodor Herzl at the First Zionist Congress, which took place in August 1897 in Basel, Switzerland.

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