

RESURGING VIOLENCE AND HOSTILITIES IN ISRAEL-PALESTINE

An overview of applicable rules of international law

Summary of Legal Brief - 28 May 2021

As sovereign in its own territory and as occupant in the Palestinian territory, Israel's actions in the current surge of violence are subject to international human rights law and to international humanitarian law (IHL). IHL, also known as the law of armed conflict or laws of war, includes both the law of occupation, which is binding upon Israel as an occupying power; and rules on the conduct of hostilities that bind both Israel and the Palestinian armed groups engaged in armed conflict with it.

ANNEXATION OF FOREIGN TERRITORY Annexation of the occupied territory is prohibited under international law and Israel's illegal annexation of East Jerusalem does not relieve it of its legal obligations. Israel is responsible for ensuring public order and civil life in the occupied territory, as well as the basic needs and well-being of the civilian population, and must respect and protect Palestinians' rights.

CREATING PERMANENT CHANGES IN THE OCCUPIED TERRITORY With only provisional authority in the occupied territory, Israel is required to maintain the status quo that existed prior to the occupation. It is not allowed to make permanent changes in the occupied territory, for example through evictions and forcible transfer of Palestinian families and transfer of its own population to the occupied territory. Confiscation of private property is also prohibited.

EXCESSIVE USE OF FORCE AND INFRINGEMENTS ON CIVIL AND POLITICAL RIGHTS All persons, including those in occupied territory, have the rights to express themselves through peaceful assembly. The occupying power should give effect to these rights. Limited restrictions are permitted only in exceptional circumstances, as defined in international law. It must always respect and protect the right to life. Where any use of force is necessary, restraint must be exercised and lethal force must not be used unless it is a means of last resort to protect human life or prevent serious injury.

ARBITRARY ARREST AND DETENTION Detention must have a legal basis and must be applied in observance of fundamental guarantees, including individual assessment by a competent authority and right to appeal. Prerogative to detain persons must not be exercised in a discriminatory manner. Children should not be detained, unless required as a measure of last resort and only for the shortest period necessary. Detainees' physical and mental integrity and well-being must be protected.

INFRINGEMENTS ON RELIGIOUS FREEDOMS The right to freedom of religion or belief includes freedom to practise religion and to access consecrated religious sites without arbitrary interference. Restrictions are legitimate only if they are prescribed by law and necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others, and only if they are proportionate, and non-discriminatory.

DEATH, INJURY AND DESTRUCTION RESULTING FROM HOSTILITIES All parties to hostilities must fully and unconditionally abide by the rules and principles of IHL regulating the conduct of hostilities, even if the opposing party fails to respect IHL. These rules and principles serve to limit the harmful effects of armed conflict and to reduce resulting human suffering. According to these rules, attacks may only be directed at military targets. Attacks that are expected to cause collateral harm to civilians that is excessive in relation to the military advantage they are anticipated to yield are prohibited. All feasible precautions must be taken to spare the civilian population from planned attacks. Infrastructure indispensable for the survival of the civilian population, such as water-related infrastructure, must also be spared.

Other relevant resources

- [Legal brief: Resurging violence and hostilities in Israel-Palestine](#)
- [Timeline: From displacement and dispossession in Sheikh Jarrah to hostilities](#)
- [Thematic Note 1: Discrimination](#)
- [Thematic Note 2: Use of force in law enforcement](#)

For all notes and a detailed analysis on the resurging violence and hostilities in Israel-Palestine, visit our website: www.diakonia.se/ihl/jerusalem/resurging-violence.

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