



LEGAL AND HUMANITARIAN IMPERATIVES FOR THE 'DAY AFTER' IN GAZA

Legal Brief February 2026

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Executive summary

After more than two years of hostilities marked by widespread civilian harm, large-scale destruction of civilian infrastructure, and serious violations of international law, the entry into force of a fragile ceasefire on 10 October 2025 and the adoption of the so-called 20-point plan, endorsed by United Nations (UN) Security Council resolution 2803 on 17 November 2025, mark a critical juncture for Gaza and the occupied Palestinian territory (oPt) more broadly. While any genuine effort to end the hostilities and to alleviate civilian suffering should be welcomed, the current transitional arrangements raise profound legal, humanitarian, as well as principled and political concerns.

This publication outlines legal and humanitarian imperatives for the 'Day After' in Gaza, grounded mainly in international humanitarian law (IHL) and international human rights law (IHRL). It identifies key humanitarian needs requiring urgent action; underscores the centrality of the Palestinian people's inalienable and unconditional right to self-determination; and sets out pathways for transitional justice, accountability, and reparations. The recommendations below are addressed to Israel, other parties to the conflict, as well as States and entities involved in implementing the 20-point plan and Security Council resolution 2803, or other reconstruction and rehabilitation efforts in Gaza, with a view to ensuring compliance with international law and laying the foundations for durable peace and sustainable governance.

Key recommendations

Right to self-determination:

- Palestinian voices and meaningful participation must be placed at the centre of all humanitarian, political, and reconstruction processes concerning the whole territory of Gaza and the oPt more generally.
- The implementation of the 20-point plan and Security Council resolution 2803 must be guided by, and fully consistent with, the Palestinian people's inalienable and unconditional right to self-determination.
- States must refrain from implementing any measures that delay, undermine, or condition the realisation of the Palestinian people's right to self-determination, including the establishment of a Palestinian State in the entirety of the oPt. Adequate guarantees must be provided that no part of the oPt, including Gaza, will be annexed.
- States have a positive obligation to cooperate by lawful means to end any impediment to the Palestinian people's exercise of their right to self-determination resulting from Israel's unlawful presence in the oPt.

Humanitarian relief and commercial supplies:

- Israel – and any other actor bound by the law of occupation – must ensure that the civilian population in the whole territory of Gaza is adequately supplied with food, water, shelter materials, medical supplies, fuel, electricity, and other goods essential to survival.
- Israel – and other concerned States – must allow and facilitate the rapid and unimpeded passage of humanitarian relief supplies, equipment, and personnel.
- Israel must lift unlawful restrictions on the entry of humanitarian aid and commercial goods, including items designated as 'dual-use' that are necessary to meet essential civilian needs.
- Crossings must operate at regular and predictable hours; additional crossings must be opened; and internal movement of relief within the whole territory of Gaza must be facilitated.

Healthcare:

- Israel – and any other actor bound by the law of occupation – must provide – or, failing this, consent to, allow, and facilitate the passage of – medical supplies, as well as ensure, to the fullest extent possible, the functioning of healthcare facilities in the whole territory of Gaza, including by restoring water, sanitation, and electricity systems.
- Steps must be taken to prevent the spread of communicable diseases. Medical personnel must be allowed to carry out their work without undue interference.
- In case necessary treatment is unavailable inside Gaza, Israel and other actors controlling the movement of persons must consent to and facilitate medical evacuations to third countries, which should endeavour to receive patients.

Adequate housing:

- The parties to the conflict must refrain from unlawfully attacking and destroying homes and shelters as well as from forcibly displacing civilians.
- Israel – and any other actor bound by the law of occupation – must consent to, allow, and facilitate the delivery of materials, equipment, and personnel necessary to provide adequate emergency shelter as well as to rebuild damaged and destroyed homes.
- The conditions must be put in place for the safe, voluntary, and dignified return of displaced Palestinians, with full respect for property rights.

Protection, care, and education of children:

- The parties to the conflict must comply with their obligations regarding the protection, care, and education of children, who are entitled to special protection in situations of armed conflict.

- Israel – and any other actor bound by the law of occupation, as well as other concerned States – must allow and facilitate the entry of educational supplies and psychosocial support materials as well as materials necessary to rebuild schools and childcare institutions.
- Pending reconstruction, they must consent to the implementation of child protection, mental health, and psychosocial support programmes that are humanitarian in nature and carried out by impartial humanitarian organisations, as well as allow and facilitate the entry of necessary supplies and personnel. Furthermore, temporary and safe mechanisms for education and childcare must be established, taking due account of the needs of children with disabilities.

Displaced persons:

- The parties to the conflict and transitional authorities must take urgent measures to meet the protection and assistance needs of internally displaced persons, including with respect to shelter, hygiene, health, safety, and family reunification.
- Guarantees must be provided to prevent further forcible transfers and deportations, and to ensure the safe, voluntary, and dignified return of displaced persons in the whole territory of Gaza.

Protection of detainees:

- Israel must bring all unlawful deprivations of liberty and enforced disappearances to an end.
- Israeli soldiers and officials must desist from torture as well as all other forms of inhuman treatment of detainees.
- Israel must repeal amendments to the Unlawful Combatants Law and other legislation incompatible with IHL and IHRL standards.
- Israel must ensure international oversight over detention, including access by the International Committee of the Red Cross (ICRC), and cooperate with relevant UN mechanisms.

The missing and dead:

- The parties to the conflict must take all feasible measures to account for the missing, and to inform families of their fate. For this purpose, Israel must allow the entry of equipment and personnel necessary to clear rubble, recover remains, and conduct DNA identification.
- The dead must be treated with dignity, and the parties to the conflict must take steps to ensure that their bodies are not despoiled. Allegations of mistreatment or unlawful killings must trigger prompt and effective investigations.

Private and public property:

- Israel – and any other armed actor operating anywhere in Gaza, including the proposed International Stabilization Force (ISF) – must refrain from unlawful destruction of property.

- Israel must make full reparation for any unlawful destruction carried out to date.
- Palestinians must be granted free and safe access to their land and property in the whole territory of Gaza, subject only to the narrow restrictions considered lawful under IHL and IHRL.

Unexploded ordnance:

- The parties to the conflict must comply with their obligations to record, mark, warn against, and clear unexploded ordnance.
- Israel – and other concerned States – must allow and facilitate the entry of demining equipment, armoured vehicles, as well as other necessary supplies and specialised personnel.

Transitional justice, accountability, and reparations:

- The parties to the conflict and transitional authorities should commit to a transitional justice process.
- Israel, the de facto authorities, and other concerned States must investigate and, where appropriate, prosecute serious violations of international law. Amnesties for international crimes must be explicitly excluded.
- Israel, Palestinian authorities, and other actors exercising relevant control should grant access to monitoring and accountability bodies in the whole territory of Gaza for purposes of documenting violations as well as collecting and preserving evidence. As far as possible, such evidence should not be destroyed and should be handed over to relevant UN-mandated bodies.
- Israel must make full reparation for internationally wrongful acts, and revise legislation to allow Palestinians effective access to remedies.
- Third States should invoke Israel's responsibility for (alleged) violations of erga omnes obligations, and demand their cessation as well as performance of the obligation of reparation. They must comply with their obligations not to recognise or render aid or assistance in the maintenance of situations resulting from serious breaches of peremptory norms, cooperate to bring such breaches to an end by lawful means, and pursue individual criminal accountability, including through universal jurisdiction.
- The international community should establish a register of damage and consider setting up an effective accountability mechanism with a robust investigative mandate complementary to existing bodies, including fact-finding missions and the International Criminal Court (ICC).

1. Introduction

After more than two years of hostilities, in which more than 71,000 Palestinians in Gaza were killed, over 171,000 were injured, and much of Gaza's built-up landscape was razed to the ground, a fragile ceasefire entered into effect on 10 October 2025.¹ At the time of writing, Hamas has released all 20 living Israeli hostages, and the remains of all deceased hostages have been returned; Israel has released 1,968 Palestinian detainees and returned the remains of hundreds of Palestinians from Gaza.² Aid operations by the UN and impartial humanitarian organisations in Gaza have been scaled up, and the Israeli military has withdrawn to the – not clearly demarcated and fluctuating – 'yellow line', retaining control over approximately 58% of Gaza's territory.³

These developments reportedly took place in accordance with the 'first phase' of the so-called '20-point plan', presented by US President Donald Trump at the end of September 2025.⁴ Israel continued carrying out airstrikes, shelling, and shootings in Gaza after the entry into force of the ceasefire, killing hundreds and injuring hundreds more, claiming that its forces have continued to come under attack.⁵ According to the Ministry of Health in Gaza, dozens were shot by Israeli forces in close proximity to the 'yellow line'.⁶

On 17 November 2025, the UN Security Council adopted a resolution endorsing the 20-point plan and welcoming the establishment of an international 'Board of Peace' chaired by US President Trump as the transitional administration in Gaza 'that will set the framework, and coordinate funding for, the redevelopment of Gaza'.⁷ The Board is set to operate until reform of the Palestinian Authority has been achieved and it 'can securely and effectively take back control of Gaza', following which 'the conditions may finally be in place for a credible pathway to Palestinian self-determination and statehood'.⁸ The Board of Peace and participating member States are authorised to set up new operational entities to discharge the Board's

1 The numbers of casualties are provided by the Gaza Ministry of Health and cover the period between 7 October 2023 and 14 January 2025. See 'Humanitarian Situation Update #353 | Gaza Strip' (OCHA oPt, 14 January 2025) <<https://www.ochaopt.org/content/humanitarian-situation-update-353-gaza-strip>>. All links were last accessed on 26 January 2026.

2 Paulin Kola, 'Israel Confirms Identity of Hostage Body Returned by Hamas as Meny Godard' BBC News (London, 14 November 2025) <<https://www.bbc.com/news/articles/czxnernkx5pgo>>; Julia Frankel and Samy Magdy, 'Israel Says the Remains of Final Hostage in Gaza are Recovered, Key for Ceasefire's Next Phase' The Associated Press (Jerusalem, 26 January 2026) <<https://apnews.com/article/israel-gaza-hamas-rafa-26-1-2026-c0b373a26ef7f4524b9b2bdad766cfda>>.

3 See eg Seham Tantesh and Julian Borger, 'Fears Gaza "Temporary" Ceasefire Line Could Become Permanent New Border' The Guardian (Gaza and London, 26 October 2025) <<https://www.theguardian.com/world/2025/oct/26/fears-gaza-temporary-ceasefire-line-could-become-permanent-new-border>>; 'The "Yellow Line": Approximately 58 Percent of the Gaza Strip is Still Under Direct Israeli Control' (Gisha, 4 November 2025) <<https://gisha.org/en/the-yellow-line/>>; Toqa Ezzidin and Julia Frankel, 'Israeli Troops Kill Palestinians for Crossing a Vague Ceasefire Line That's Sometimes Unmarked' The Associated Press (Cairo, 18 January 2026) <<https://apnews.com/article/gaza-ceasefire-yellow-line-062f3a55d737cc83607c0ddacf312df0>>.

4 'Trump's 20-Point Gaza Peace Plan in Full' BBC News (London, 9 October 2025) <<https://www.bbc.com/news/articles/c70155nked7o>>.

5 See eg Humanitarian Situation Update #353 | Gaza Strip (n 1); Abeer Salman, Tareq Al Hilou, and Mohammed Tawfeeq, 'Israeli Strikes Across Gaza Kill at Least 28 Palestinians, as Hamas Warns of "Dangerous Escalation"' CNN (Atlanta, 19 November 2025) <<https://edition.cnn.com/2025/11/19/middleeast/israel-strikes-gaza-escalation-latam-int>>; Abbie Cheeseman and others, 'Despite Gaza Ceasefire, War Still Deadly Along Israel's "Yellow Line"' The Washington Post (Washington DC, 8 January 2026) <<https://www.washingtonpost.com/world/2026/01/03/israel-yellow-line-gaza-ceasefire/>>; Nidal Al-Maghribi, 'Israeli Fire Kills 11, Including Journalists and Children, Gaza Medics Say' Reuters (Cairo, 21 January 2026) <<https://www.reuters.com/world/middle-east/israeli-fire-kills-five-palestinians-trump-seeks-advance-gaza-peace-deal-2026-01-21/>>.

6 See eg Ezzidin and Frankel (n 3).

7 UNSC Res 2803 (2025) (17 November 2025) UN Doc S/RES/2803 (2025) para 2.

8 *ibid.*

functions,⁹ and to establish a 'temporary International Stabilization Force (ISF)' mandated to secure borders, ensure the demilitarisation process, and protect civilians in Gaza, amongst other tasks.¹⁰ The Security Council further authorised the Board of Peace and any 'international civil and security presences' established pursuant to the resolution to remain in place until at least 31 December 2027,¹¹ and underscored the importance of fully resuming the delivery of humanitarian aid in accordance with 'relevant international legal principles'.¹²

On 14 January 2026, the US administration announced a move towards the 'second phase' of the 20-point plan.¹³ On 16 January, the White House released an initial list of Board of Peace members – both of a founding Executive Board and a Gaza Executive Board, the latter being mandated to oversee the newly established 'National Committee for the Administration of Gaza' (NCAG), comprised of Palestinian officials.¹⁴ Additional members of the Board of Peace – including several world leaders – have since been made public, suggesting that it is envisioned as a global parallel structure to the UN system beyond the context of Gaza.¹⁵

Any steps to implement the 20-point plan and resolution 2803 must be consistent with IHL, IHRL, and other applicable legal frameworks and principles.¹⁶ Any entities, mechanisms, legal or policy frameworks created, or measures taken pursuant to the plan and resolution 2803 must be in conformity with international law.

While any genuine prospect of ending the hostilities and alleviating civilian suffering is to be welcomed, both the plan and resolution 2803 largely exclude Palestinian voices from decision-making, and there is no firm commitment to full Israeli withdrawal and the establishment of a Palestinian State in Gaza and the West Bank, including East Jerusalem.¹⁷ Furthermore, both

9 ibid para 4. This includes (i) the establishment of a 'transitional governance administration' overseeing 'a Palestinian technocratic, apolitical committee' tasked with 'day-to-day operations of Gaza's civil service and administration'; (ii) reconstruction and economic recovery; (iii) coordinating public services and humanitarian assistance; as well as (iv) facilitating the movement of persons to and from Gaza, amongst others.

10 ibid para 7. The ISF would work alongside Israel and Egypt as well as a 'newly trained and vetted Palestinian police force'.

11 ibid para 8.

12 ibid para 3.

13 See eg Michelle L Price, 'Gaza is Entering the Second Phase of the Ceasefire Plan Trump Helped Broker, US Says' *The Associated Press* (Washington DC, 14 January 2026) <<https://apnews.com/article/mideast-wars-israel-hamas-gaza-trump-witkoff-bb39015d25aeb627a5b9ce73dd4e1155>>.

14 'Statement on President Trump's Comprehensive Plan to End the Gaza Conflict' (The White House, 16 January 2026) <<https://www.whitehouse.gov/briefings-statements/2026/01/statement-on-president-trumps-comprehensive-plan-to-end-the-gaza-conflict/>>. The NCAG – which has been conducting meetings in Egypt – has reportedly been denied entry into Gaza by Israel. See eg Jack Khoury, 'Israel Blocks Entry of Committee Meant to Run Gaza Under Trump Plan, Palestinians Say' *Ha'aretz* (Tel Aviv, 20 January 2026) <<https://www.haaretz.com/israel-news/2026-01-20/ty-article/premium/israel-blocks-entry-of-committee-meant-to-run-gaza-under-trump-plan-palestinians-say/0000019b-da42-d141-afdf-faea12780000>>; Toqa Ezzidin, Fatma Khaled, and Michelle L Price, 'White House Names Some Leaders with Roles in Next Steps in Gaza, While Palestinian Committee Meets' *The Associated Press* (Cairo, 17 January 2026) <<https://apnews.com/article/mideast-wars-israel-hamas-gaza-ceasefire-dce5a67ee31c5310149121baa52ea14a>>.

15 See eg Samy Magdy and Julia Frankel, 'Trump's Board of Peace Has Several Invited Leaders Trying to Figure Out How It'll Work' *The Associated Press* (New York, 20 January 2026) <<https://apnews.com/article/israel-palestinians-gaza-trump-board-79586f87db667d61dbbd6a4e59dc5cb>>; Julia Frankel and Samy Magdy, 'Trump's Board of Peace is Dividing Countries in Europe and the Middle East' *The Associated Press* (Jerusalem, 21 January 2026) <<https://apnews.com/article/mideast-wars-gaza-board-of-peace-trump-1-21-2026-2f0e063d03babbd3276f31289ba5f2a2>>.

16 Including the finding of the International Court of Justice (ICJ) in its landmark Advisory Opinion of 19 July 2024 that Israel's continued presence in the oPt is unlawful and must be brought to an end as rapidly as possible. See *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem* (Advisory Opinion) General List No 186 [19 July 2024] (Advisory Opinion of 19 July 2024) [285(3)], [285(4)] <<https://icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-00-en.pdf>>. On the legal framework applicable to parties to the current conflict in Gaza and new entities created to implement the 20-point plan and resolution 2803, see the note on terminology and the separate document on 'International Law Parameters for Third-State Engagement in Gaza'.

17 Trump's 20-Point Gaza Peace Plan in Full (n 4) pt 16 provides that the Israeli military 'will progressively hand over the Gaza territory it occupies to the ISF according to an agreement they will make with the transitional authority until they are withdrawn completely from Gaza, save for a security perimeter presence that will remain until Gaza is properly secure from any resurgent terror threat' (emphasis added). See also pt 19. UN Doc S/RES/2803 (2025) (n 7) paras 2 and 7 reiterate this.

documents omit crucial elements required to address the urgent humanitarian needs of more than two million Palestinians who have lived through famine and sustained life-altering injuries, many of whom no longer have homes to return to.¹⁸ Strikingly, neither contains any reference to accountability for serious violations of international law committed over the course of the hostilities, or the right of victims to reparation.

The purpose of this document is to provide guidance to the actors involved in implementing the 20-point plan and Security Council resolution 2803.¹⁹ This guidance – grounded in international law – focuses on addressing urgent humanitarian concerns with a specific emphasis on obligations emanating from IHL, advancing the realisation of the Palestinian people's right to self-determination, and illustrating pathways for accountability. The document also offers non-exhaustive, concrete recommendations to illustrate how the duty bearers may discharge their respective legal obligations in practice.

It is structured as follows.

- **Section 2** describes how the Palestinian people's right to self-determination must inform the implementation of the 20-point plan and resolution 2803, or any other reconstruction and rehabilitation efforts in Gaza.
- **Section 3** covers select humanitarian issues that should be addressed by the actors involved in implementing the 20-point plan and resolution 2803 as a matter of immediate concern: (a) humanitarian relief and commercial supplies; (b) healthcare; (c) adequate housing; (d) the protection, care, and education of children; (e) displacement; (f) protection of detainees; (g) the missing and dead; (h) protection of public and private property; and (i) unexploded ordnance.
- **Section 4** sets out the requirements concerning transitional justice, accountability, and reparations. Further to realising the Palestinian people's right to self-determination, this second anchor point is essential for sustainable peace and governance.



¹⁸ See section 3 below.

¹⁹ This includes Israel, the current occupying power; any entities or mechanisms set up pursuant to the 20-point plan and Security Council resolution 2803, such as the Board of Peace, the ISF, the Civil–Military Coordination Center (CMCC), and any transitional administration; as well as States that participate in or support these entities' operations.

A NOTE ON TERMINOLOGY

The analysis that follows is addressed primarily to parties to an armed conflict and occupying powers. IHL distinguishes two types of armed conflicts: international armed conflicts (IACs) and non-international armed conflicts (NIACs). Their classification depends on the identity of the parties.

An IAC exists when two or more States use force against one another.²⁰ Situations of occupation constitute a special form of IAC;²¹ they arise when territory belonging to one State 'is actually placed under the authority of [a] hostile army' – so, whenever a State exercises effective control over foreign territory without the consent of the lawful sovereign.²² A NIAC arises when there is fighting of sufficient intensity between a State and a non-State armed group or between several non-State armed groups that are sufficiently organised.²³

Actors that are engaged in a situation of armed conflict without becoming parties thereto – including by becoming occupying powers – would nonetheless be bound by IHL rules to the extent that their conduct has a nexus to the conflict.²⁴ Furthermore, there are strong policy reasons for applying relevant provisions of the law of occupation by analogy in a situation where such actors exercise control over a civilian population in order to avoid a legal vacuum and corresponding protection gap.²⁵

IHL obligations continue to apply in situations of armed conflict, including occupation.²⁶ They apply not just in a State's own territory but also extraterritorially whenever a State exercises effective control over foreign territory or persons, and their scope is commensurate to this control.²⁷

²⁰ 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 2. See Marco Sassòli, *International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare* (2nd edn, Edward Elgar 2024) paras 3.04, 3.05.

²¹ GC IV (n 20) art 2(2).

²² 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 42. Pursuant to the functional approach to occupation, an occupying power continues to be bound by obligations pursuant to the law of occupation as a function of the control it retains over spheres of life in the territory even when its ground forces are no longer physically present. See eg Tristan Ferraro, 'Determining the Beginning and End of an Occupation Under International Humanitarian Law' (2012) 94 Int'l Rev Red Cross 133; Advisory Opinion of 19 July 2024 (n 16) [86]–[94]; *Convention (IV) Relative to the Protection of Civilian Persons in Time of War*. Geneva, 12 August 1949. *Commentary of 2025* (ICRC 2025) (2025 ICRC Commentary to GC IV) art 2 paras 372–384.

²³ Sassòli (n 20) para 3.05. On the criteria of intensity and organisation, see eg *Prosecutor v Haradinaj* (Trial Judgment) IT-04-84-T (3 April 2008) [49], [60]; *Prosecutor v Milošević* (Decision on Motion for Judgment of Acquittal) IT-02-54-T (16 June 2004) [26]–[32]; *Prosecutor v Bošković* (Trial Judgment) IT-04-82-T (10 July 2008) [199]–[203].

²⁴ Sassòli (n 20) para 9.132. On the concept of 'belligerent nexus', see Nils Melzer, 'Interpretive Guidance on the Notion of Direct Participation in Hostilities Under International Humanitarian Law' (ICRC, May 2009) 58–64 <https://www.icrc.org/sites/default/files/external/doc/en/assets/files/other/icrc_002_0990.pdf>.

²⁵ The provisions that should be applied by analogy are the restrictions imposed on an occupying power in accordance with the 'conservationist principle' – mandating it to respect, with narrow exceptions, the status quo ante in the occupied territory – and those that are protective of the local population (including treatment guarantees and the duty to ensure that the population is adequately supplied).

²⁶ See eg Advisory Opinion of 19 July 2024 (n 16) [99] and the references cited therein.

²⁷ See eg *ibid*; Nicola Wenzel, 'Human Rights, Treaties, Extraterritorial Application and Effects' MPEPIL (last updated May 2008); Marko Milanovic, *Extraterritorial Application of Human Rights Treaties: Law, Principles, and Policy* (OUP 2011).

2. The Palestinian people's right to self-determination

The 20-point plan and Security Council resolution 2803 largely sideline Palestinian voices – who are merely envisaged to oversee 'the day-to-day running of public services and municipalities' while being supervised by the Board of Peace.²⁸ There is no mention of the West Bank, including East Jerusalem, prompting concerns about deepening fragmentation of the oPt as well as of its population, and the envisaged arrangement sets the scene for economic control by external stakeholders.²⁹ It further leaves open the possibility of continued Israeli control over parts of Gaza and does not articulate a firm commitment to Palestinian statehood, except a vague reference to 'the conditions ... finally [being] in place for a credible pathway to Palestinian self-determination and statehood'.³⁰

From a principled perspective, such provisions are difficult to reconcile with the Palestinian people's right to self-determination. On a conceptual level, the right to self-determination has been understood to entail, in the first instance, a participatory right or 'procedural guarantee' that obligates governments and the international community to respect the freely expressed will of a people when determining their political status and pursuing their development.³¹ In terms of substantive entitlements, outside the colonial context, it has been held that the right 'is normally fulfilled through internal self-determination – a people's pursuit of its political, economic, social and cultural development within the framework of an existing state'.³² In the context of colonial rule or foreign occupation, such as Israel's occupation of Palestinian territory, a substantive entitlement to external self-determination has been recognised,³³ which may be realised by means of: '(a) [e]mergence as a sovereign independent State; (b) [f]ree association with an independent State; or (c) [i]ntegration with an independent State'.³⁴ The right to self-determination is a peremptory norm of international law from which no derogation is permitted

28 Trump's 20-Point Gaza Peace Plan in Full (n 4) pt 9; UN Doc S/RES/2803 (2025) (n 7) paras 2, 4. See eg Ralph Wilde, 'Why the Trump-Blair Gaza Plan is Unlawful' *Middle East Eye* (London, 2 October 2025) <<https://www.middleeasteye.net/opinion/why-trump-blair-gaza-plan-is-unlawful>>; 'UN Security Council Resolution a Violation of Palestinian Right of Self-Determination and UN Charter, UN Expert Warns' (OHCHR, 19 November 2025) <<https://www.ohchr.org/en/press-releases/2025/11/un-security-council-resolution-violation-palestinian-right-self>>. See also Ezzidin, Khaled, and Price (n 14).

29 It envisages the creation of '[a] special economic zone ... with preferred tariff and access rates to be negotiated with participating countries' as well as '[a] Trump economic development plan' supposedly drawing inspiration from 'experts who have helped birth some of the thriving modern miracle cities in the Middle East'. Trump's 20-Point Gaza Peace Plan in Full (n 4) pts 10 and 11.

30 *ibid* pts 16 and 19; UN Doc S/RES/2803 (2025) (n 7) paras 2, 7.

31 Jan Klabbers, 'The Right to be Taken Seriously: Self-Determination in International Law' (2006) 28 *Human Rights Quarterly* 186, 205. See Natalie Jones, 'Self-Determination and the Right of Peoples to Participate in International Law-Making' (2021) 0 *British Yearbook Int'l Law* 1, 3.

32 This is provided that the 'government represents the whole of the people or peoples resident within its territory, on a basis of equality and without discrimination'. *Reference re Secession of Quebec* [1998] 2 SCR 217 [126], [130] (emphasis in original). See also Daniel Thürer and Thomas Burri, 'Self-Determination' MPEPIL (last updated December 2008) para 35.

33 See UNGA 'Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations' (1970) UN Doc A/RES/2625(XXV) 123-124. See also Advisory Opinion of 19 July 2024 (n 16) [233]; *Reference re Secession of Quebec* (n 32), referring to situations 'where a people is subject to alien subjugation, domination or exploitation outside a colonial context'.

34 See UNGA 'Principles Which Should Guide Members in Determining Whether or Not an Obligation Exists to Transmit the Information Called for Under Article 73 e of the Charter' (1960) UN Doc A/RES/1541(XV) prin VI.

– including by the UN Security Council – that gives rise to obligations *erga omnes*, i.e., obligations that are owed to the international community as a whole.³⁵

The right of the Palestinian people to self-determination has been reaffirmed time and again by the international community. Importantly, its realisation may not be subjected to any conditions on the part of Israel or any other external actor.³⁶ In its landmark Advisory Opinion of 19 July 2024, the International Court of Justice (ICJ) found that Israel's continued presence in the oPt is unlawful because it violates the Palestinian people's right to self-determination (as well as the prohibition of the acquisition of territory by force), and accordingly must be brought to an end as rapidly as possible.³⁷ For as long as its unlawful presence in the oPt endures, Israel remains bound by its obligations under IHL and IHRL.³⁸ The Court emphasised in particular the following elements of self-determination that are negated by means of Israel's policies and practices, thus impeding the Palestinian people's exercise of the right: (i) the right to territorial integrity; (ii) protection against dispersal of the population and undermining of its integrity as a people; (iii) the right to permanent sovereignty over natural resources; and (iv) the right of a people to freely determine its political status as well as to pursue its economic, social, and cultural development.³⁹

Noting that Israel has an obligation not to impede the exercise by the Palestinian people of its right to self-determination, the Court furthermore acknowledged the long-recognised parameters in this context, i.e., the establishment of a Palestinian State in 'the entirety of' the oPt – the West Bank, including East Jerusalem, and the Gaza Strip – which it characterised as a corollary 'right'.⁴⁰ As noted by a number of States in their explanation of vote, Security Council

35 Advisory Opinion of 19 July 2024 (n 16) [233]: 'The Court considers that, in cases of foreign occupation such as the present case, the right to self-determination constitutes a peremptory norm of international law'. See ILC 'Report of the International Law Commission on its Seventy-Third Session 18 April–3 June and 4 July–5 August 2022' (Advance version of 12 August 2022) UN Doc A/77/10 concl 17 and 23; *East Timor (Portugal v Australia)* (Judgment) [1995] ICJ Rep 90 [29]. See also Vienna Convention on the Law of Treaties (adopted 22 May 1969, entered into force 27 January 1980) 1155 UNTS 331 art 53, which reflects customary international law and provides: 'A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law'.

36 Advisory Opinion of 19 July 2024 (n 16) [257]: 'The Court considers that the existence of the Palestinian people's right to self-determination cannot be subject to conditions on the part of the occupying Power, in view of its character as an inalienable right'.

37 *ibid* [261], [285(3)], [285(4)]. See also '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.diakonia.se/ihl/news/icj-advisory-opinion-legal-consequences-third-states-international-organisations/>>.

38 Advisory Opinion of 19 July 2024 (n 16) [251]: 'The Court considers that the rules and principles of general international law and of the Charter of the United Nations on the use of force in foreign territory (*jus ad bellum*) have to be distinguished from the rules and principles that apply to the conduct of the occupying Power under international humanitarian law (*jus in bello*) and international human rights law. The former rules determine the legality of the continued presence of the occupying Power in the occupied territory; while the latter continue to apply to the occupying Power, regardless of the legality or illegality of its presence'. See also *ibid* [264], [272].

39 Advisory Opinion of 19 July 2024 (n 16) [237]–[243] and the references cited therein.

40 Advisory Opinion of 19 July 2024 (n 16) [237]: 'The Court considers that Israel, as the occupying Power, has the obligation not to impede the Palestinian people from exercising its right to self-determination, including its right to an independent and sovereign State, over the entirety of the Occupied Palestinian Territory'. See most recently 'General Assembly Endorses New York Declaration, Charting Path to Palestinian Statehood' (United Nations, 12 September 2025) <<https://press.un.org/en/2025/ga12707.doc.htm>>. See also *Obligations of Israel in Relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in Relation to the Occupied Palestinian Territory* (Advisory Opinion) General List No 196 [22 October 2025] (Advisory Opinion of 22 October 2025) [217]–[222] <<https://www.icj-cij.org/sites/default/files/case-related/196/196-20251022-adv-01-00-en.pdf>>.

resolution 2803 does not affect the Palestinian people's right to self-determination,⁴¹ and must be interpreted and implemented in conformity with this right, including with a view to achieving its long overdue realisation.

Israel, third States contributing to the implementation of the 20-point plan and resolution 2803, as well as the international community at large must ensure that Palestinian voices and meaningful participation are placed at the centre of all humanitarian and diplomatic processes concerning the oPt, including reconstruction in the whole territory of Gaza. The inalienable and unconditional right of the Palestinian people to self-determination – including the principles of territorial integrity, protection against dispersal of the population and preservation of its integrity as a people, permanent sovereignty over natural resources, and free determination of political status as well as pursuit of economic, social, and cultural development – must serve as the paramount guiding precepts governing the interpretation and implementation of the 20-point plan and resolution 2803. States must refrain from implementing their provisions in any manner that delays or undermines the realisation of the right to self-determination. This entails, amongst other things, preventing a further geographical fragmentation of Gaza and the oPt as a whole as well as a further unravelling of Palestine's social fabric, for example by enabling family reunification and ensuring that basic supplies and essential services are provided to the population in the whole territory of Gaza, as required by international law.⁴² Any measures derived from the 20-point plan and resolution 2803 that contravene the Palestinian people's right to self-determination would be without legal effect. All States have a positive obligation to cooperate by lawful means to bring any impediment resulting from Israel's illegal presence in the oPt to the realisation of the Palestinian people's right to self-determination to an end.⁴³



41 See eg Statement by HE Dr Michael Imran Kanu, Ambassador and Permanent Representative, 'Sierra Leone's Explanation of Vote After the Security Council Adoption of the Gaza Resolution Proposed by the United States' (Permanent Mission of the Republic of Sierra Leone to the United Nations, 18 November 2025) <<https://slmissionun.gov.sl/sierra-leones-explanation-of-vote-after-the-security-council-adoption-of-the-gaza-resolution-proposed-by-the-united-states-the-resolution-was-adopted-with-13-votes-in-favor-and-2-abstentions/>>; Mr Jerome Bonnafont, Permanent Representative of France to the United Nations, 'France Voted in Favor of the Resolution to Meet the Most Urgent Needs of the Population' (Permanent Mission of France to the United Nations, 17 November 2025) <<https://onu.delegfrance.org/france-voted-in-favor-of-the-resolution-in-order-to-meet-the-most-urgent-needs>>; James Kariuki, UK Chargé d'Affaires to the UN, 'The United Kingdom Voted in Favour of this Resolution as a Critical Step Towards the Implementation of the Peace Plan for Palestinians, Israelis, and the Region: UK Explanation of Vote at the UN Security Council' (Foreign, Commonwealth & Development Office, 17 November 2025) <<https://www.gov.uk/government/speeches/the-united-kingdom-voted-in-favour-of-this-resolution-as-a-critical-step-towards-the-implementation-of-the-peace-plan-for-palestinians-israelis-and>>.

42 See the sections on humanitarian relief and commercial supplies as well as on displaced persons below.

43 Advisory Opinion of 19 July 2024 (n 16) [279].

3. Key humanitarian imperatives

This section – which is not intended to be exhaustive – covers select humanitarian issues that should be addressed by the actors involved in the implementation of the 20-point plan and Security Council resolution 2803 as a matter of immediate concern, and sets out their corresponding legal obligations. For each issue, the section first provides an overview of humanitarian needs, followed by a synthesis of the applicable legal framework (with a particular emphasis on IHL), and closes with a set of concrete recommendations to illustrate how the duty bearers may discharge their legal obligations in practice.

(a) Humanitarian relief and commercial supplies

Already prior to the hostilities, the decades-long closure imposed by Israel had taken a heavy toll on Gaza's economy.⁴⁴ Throughout the hostilities, Israel imposed further severe restrictions on the entry of both humanitarian aid and commercial supplies into Gaza, completely sealing off the Strip for extended periods of time – with catastrophic consequences.⁴⁵ While sometimes overlooked vis-à-vis humanitarian relief, the entry of commercial supplies is also essential for ensuring that the fundamental needs of the population are met.⁴⁶

While the scaling up of humanitarian assistance and commercial supplies in the wake of the ceasefire as well as the return to a delivery system centred around the UN and impartial humanitarian partner organisations are to be welcomed,⁴⁷ the population in Gaza is still facing severe shortages of food, water, shelter materials, and hygiene.⁴⁸ Sustained efforts to deliver further supplies at scale are urgently needed.⁴⁹

44 See eg Larry Elliott, 'UN Report: 80% of Gaza Inhabitants Relied on International Aid Before War' *The Guardian* (London, 25 October 2023) <<https://www.theguardian.com/world/2023/oct/25/un-report-80-per-cent-of-gaza-inhabitants-relied-on-international-aid-before-war>>.

45 Israel imposed a complete closure on all of Gaza in October 2023, North Gaza from October 2024 until January 2025, and again on the whole of Gaza from early March until end of May 2025. See eg 'Analysis of Developments in North Gaza' (IHL Centre, 12 December 2024) <<https://www.diakonia.se/ihl/news/analysis-developments-north-gaza/>>; David Gritten, 'Israel Lets Aid into Gaza After 11-Week Blockade but UN Calls it "Drop in Ocean"' *BBC News* (London, 19 May 2025) <<https://www.bbc.com/news/articles/c3d4kz8p00eo>>.

46 In case of a shortage, commodity prices shoot up, rendering basic items unaffordable (for example, earlier last year, a 25-kg bag of flour reportedly sold for several hundreds of dollars in Gaza, and a pack of diapers for over 100 dollars). See eg Adam Rasgon and Ashley Wu, 'This Is What Basic Food Costs in Gaza Now, if You Can Find It' *The New York Times* (Tel Aviv and New York, 31 July 2025) <<https://www.nytimes.com/2025/07/31/world/middleeast/gaza-market-prices-flour.html>>; Humanitarian Situation Update #353 | Gaza Strip (n 1).

47 See eg 'Infographic: Humanitarian Response by the UN and Humanitarian Partners During the First Month of the October 2025 Ceasefire' (OCHA oPt, 11 December 2025) <<https://www.ochaopt.org/content/infographic-humanitarian-response-un-and-humanitarian-partners-during-first-month-october-2025-ceasefire>>.

48 See eg 'Gaza Humanitarian Response | Situation Report No. 31' (OCHA oPt, 26 November 2025) <<https://www.ochaopt.org/content/gaza-humanitarian-response-situation-report-no-31>>; 'One Month into the Gaza Ceasefire, Conditions Remain Desperate' (Doctors Without Borders, 11 November 2025) <<https://www.doctorswithoutborders.org/latest/one-month-gaza-ceasefire-conditions-remain-desperate>>; Lilia Sebouai, Nedal Hamdouna, and Paul Nuki, 'Gaza Awash with iPhones and Chocolate – But Fresh Food in Short Supply' *The Telegraph* (London, 4 December 2025) <<https://www.telegraph.co.uk/global-health/terror-and-security/gaza-awash-with-iphones-and-chocolate-but-not-fresh-food/>>; 'Gaza: Severe Winter Conditions Compound Humanitarian Crisis for Displaced Palestinians' (ICRC, 19 January 2026) <<https://www.icrc.org/en/article/gaza-severe-winter-conditions-compound-humanitarian-crisis-displaced-palestinians>>.

49 The volume of relief efforts to be authorised as foreseen in the 20-point plan appears largely insufficient to meet the current needs of the population in Gaza. While the plan envisions aid quantities 'consistent with what was included in the 19 January 2025 agreement' (Trump's 20-Point Gaza Peace Plan in Full (n 4) pt 7), it is highly doubtful that quantities from January 2025 will suffice taking into consideration the grave deterioration of humanitarian conditions. In any case, the numbers of trucks that have entered Gaza have reportedly fallen well short of this stipulation. See eg Muhammad Shehada, 'What's Behind Israel's New Plan to Divide Gaza in Two' +972 Magazine (Tel Aviv, 31 October 2025) <<https://www.972mag.com/trump-israel-plan-divide-gaza/>>; Meret Michel, 'Why is so Little Aid Getting into Gaza?' SwissInfo (Bern, 7 January 2026) <<https://www.swissinfo.ch/eng/humanitarian-aid/why-is-so-little-aid-getting-into-gaza/90701245>>.

Important challenges also remain regarding aid distribution to all those in need given the opening of only a limited number of crossings;⁵⁰ the large-scale destruction of critical road networks;⁵¹ the risk posed by unexploded ordnance;⁵² as well as restrictions on the relief operations of non-governmental organisations (NGOs), including the recent de-registration of dozens of NGOs by the Israeli authorities, which stands to grind their life-saving operations to a halt.⁵³

Under IHL, parties to an armed conflict have an obligation to allow and facilitate the rapid and unimpeded passage of impartial humanitarian relief to civilians in need;⁵⁴ in occupied territory specifically, the occupying power has the primary obligation to ensure, to the fullest extent of its available means, that the civilian population is adequately provided with food, medical supplies, and other supplies essential to its survival, such as water, shelter, clothing, fuel, and electricity.⁵⁵ The occupying power must do so through import as a part of normal trade, humanitarian relief, or any other means available.⁵⁶ If it fails to adequately supply the population itself, the occupying power is under an unqualified duty to consent to offers of relief from impartial humanitarian organisations.⁵⁷ Once it has consented to such offers, the occupying power must allow and facilitate the rapid and unimpeded passage of humanitarian relief supplies, equipment, and personnel.⁵⁸

Like parties to the conflict generally, the occupying power has a right to control relief consignments to ensure that they are humanitarian in nature, designed to benefit and reach the population in need, and to ascertain that aid is not diverted, for example.⁵⁹ However, this right of control 'may never result in unduly delaying or rendering impossible the delivery of the humanitarian relief'.⁶⁰ One key consideration in assessing whether the conditions imposed by the occupying power are in line with its duty to allow and facilitate humanitarian relief is whether

50 See eg 'More Crossings in Gaza Need to Open to Allow Aid in, UN Chief Spokesperson Says' *Middle East Eye* (London, 4 December 2025) <<https://www.middleeasteye.net/live-blog/live-blog-update/more-crossings-gaza-need-open-allow-aid-un-chiefs-spokesperson-says>>.

51 Jason Burke, 'Challenges Remain for Aid Distribution in Gaza City Despite Ceasefire with Israel' *The Guardian* (London, 15 October 2025) <<https://www.theguardian.com/world/2025/oct/15/challenges-remain-for-aid-distribution-in-gaza-city-despite-ceasefire-with-israel>>.

52 See the section on unexploded ordnance below.

53 See eg 'Israel Has Rejected Over 100 Aid Requests Since Gaza Ceasefire, UN Says' (UN News, 6 November 2025) <<https://news.un.org/en/story/2025/11/1166295>>; Sam Mednick and Julia Frankel, 'International Aid Groups Grapple with What Israel's Ban Will Mean for Their Work in Gaza' *The Associated Press* (Tel Aviv, 5 January 2026) <<https://apnews.com/article/israel-hamas-gaza-war-netanyahu-aid-groups-077833baa586d64de3246fcff056d864>>.

54 For parties to the conflict (as well as all High Contracting Parties, as applicable), see GC IV (n 20) art 23; 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 70(1), 70(2); Protocol (II) Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (adopted 8 June 1977, entered into force 7 December 1978) 1125 UNTS 609 (AP II) art 18(2); Study on Customary IHL by the International Committee of the Red Cross (ICRC) 'Customary IHL Database' (ICRC, first published in 2005) (CIHL) r 55.

55 GC IV (n 20) art 55(1); AP I (n 54) art 69(1). For an analysis of the legal framework governing the provision of humanitarian aid in Gaza, see 'A Legal Appraisal of Israel's Purported Aid Delivery Scheme in Gaza' (IHL Centre, 20 June 2025) <<https://www.diakonia.se/ihl/news/a-legal-appraisal-of-israels-purported-aid-delivery-scheme-in-gaza/>>.

56 2025 ICRC Commentary to GC IV (n 22) art 55 para 3445.

57 GC IV (n 20) art 59(1); AP I (n 54) art 69(2).

58 GC IV (n 20) arts 23, 59(3), 61(2); AP I (n 54) arts 69(2), 71(3); CIHL (n 54) r 55; 'ICRC Q&A and Lexicon on Humanitarian Access' (2014) 96 Int'l Rev Red Cross 359 (ICRC Q&A) 370–371. This includes facilitating the administrative and logistical arrangements necessary for impartial humanitarian organisations to carry out their work, such as registration and taxation issues; visas and work permits; as well as the entry and exit of supplies and equipment.

59 GC IV (n 20) arts 23, 59(4); AP I (n 54) art 70(3); CIHL (n 54) r 55; 2025 ICRC Commentary to GC IV (n 22) art 59(4) para 3603. In territories that are not occupied territories, see AP I (n 54) art 70(3). See ICRC Q&A (n 58) 374; Dapo Akande and Emanuel-Chiara Gillard, *Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict* (OCHA 2016) (Oxford Guidance) paras 59–72 <<https://www.elac.ox.ac.uk/wp-content/uploads/2022/06/oxfordguidancepdf.pdf>>.

60 2025 ICRC Commentary to GC IV (n 22) art 59(1) para 3578.

the population is adequately supplied, in an impartial manner, without discrimination.⁶¹ In addition, any conditions imposed by the occupying power must 'respect and ensure a State or humanitarian organization's ability to work according to its mandate, principles and working methods'.⁶²

Although an occupying power may choose the humanitarian provider through which it fulfils its obligation to agree to and facilitate humanitarian relief, this discretion is not unlimited: it may not undermine the occupying power's underlying obligation to provide for the needs of the population, and thus depends on whether the chosen arrangement will realistically lead to the needs of the population being met.⁶³ In the case of Gaza, fulfilling this obligation may require allowing and facilitating the activities not only of UN agencies and other international organisations,⁶⁴ but also of other impartial humanitarian organisations – including international and local NGOs.⁶⁵ The recent de-registration of dozens of international NGOs that have been carrying out life-saving aid operations in Gaza contravenes this obligation.⁶⁶

IHRL too informs the duties of an occupying power.⁶⁷ It requires an occupying power to respect and protect the right to life of all persons in the occupied territory, which entails a duty to 'take positive action to eradicate or alleviate the effects of any emergency situations'.⁶⁸ Other human rights relevant in this context include the rights to food, water, clothing, and housing, the right to the highest attainable standard of health, and the right to education.⁶⁹

Israel – and any other actor bound by the law of occupation – must ensure that the civilian population in the whole territory of Gaza is adequately supplied, whether through the restoration of normal commercial imports, the provision of humanitarian relief, or any other available means. Israel, all parties to the conflict, and other concerned States must allow and facilitate the rapid and unimpeded passage of humanitarian relief supplies, equipment, and personnel. In particular, Israel must lift unlawful restrictions on the entry of essential items, including food, shelter materials, medical supplies, education materials, and demining equipment as well as equipment to remove rubble and to restore water, sanitation, and power systems. This also concerns items reportedly designated as 'dual-use' that are necessary to meet essential civilian needs (such as tent poles, chemicals needed for water purification, or

61 See A Legal Appraisal of Israel's Purported Aid Delivery Scheme in Gaza (n 55).

62 2025 ICRC Commentary to GC IV (n 22) art 59(1) para 3582.

63 See A Legal Appraisal of Israel's Purported Aid Delivery Scheme in Gaza (n 55) 11 and 27–30.

64 See Advisory Opinion of 22 October 2025 (n 40) [114], [121], [124], [127].

65 See eg 'Mounting Alarm as Israeli Authorities Reject NGO Applications to Transport Life-Saving Aid into Gaza' (Norwegian Refugee Council, 23 October 2025) <<https://www.nrc.no/news/2025/october/mounting-alarm-as-israeli-authorities-reject-ngo-applications-to-transport-life-saving-aid-into-gaza>>. Pursuant to GC IV (n 20) art 59(2), occupying powers must consent to offers from 'impartial humanitarian organizations'. As noted by the ICRC, the number and diversity of organisations which are recognised as such by parties to an armed conflict 'have grown significantly to include both certain non-governmental organizations and certain intergovernmental organizations'. 2025 ICRC Commentary to GC IV (n 22) art 59(2) para 3586. GC IV does not distinguish between national and international impartial humanitarian organisations.

66 See n 53 above.

67 Israel is bound by relevant human rights conventions with respect to the oPt as has been confirmed by the ICJ, most recently in its Advisory Opinions of 19 July 2024 and 22 October 2025. See Advisory Opinion of 19 July 2024 (n 16) [100] and the references cited therein; Advisory Opinion of 22 October 2025 (n 40) [149]–[150] and the references cited therein.

68 Ruth Abril Stoffels, 'Legal Regulation of Humanitarian Assistance in Armed Conflict: Achievements and Gaps' (2004) 86 Int'l Rev Red Cross 515, 517. Resources offered by the international community must be considered 'available resources' when evaluating whether a State has been taking all necessary steps to ensure the enjoyment of human rights. See UN Committee on Economic, Social and Cultural Rights, 'General Comment No. 3: The Nature of States Parties' Obligations' (14 December 1990) UN Doc E/1991/23 paras 11, 13.

69 See the relevant sections below.

parts of medical equipment such as X-ray machines).⁷⁰ All delivery and distribution mechanisms must ensure that Palestinians in the whole territory of Gaza can effectively access relief of adequate variety and quantity, without discrimination. This requires, amongst other things, that crossings operate at regular, predictable hours; that additional crossings be opened; and that relief movements inside the whole territory of Gaza be facilitated and coordinated. It also entails putting in place the modalities that enable impartial humanitarian organisations – including UN entities as well as the international and local NGOs they partner with and that operate alongside them – to deliver needed relief.

(b) Healthcare

After two years of hostilities, much of Gaza's healthcare system has been destroyed, often in attacks and military operations that contravene applicable legal rules and protections.⁷¹ Israel's persistent restrictions on the entry of medical supplies have led to critical shortages and catastrophic conditions for the delivery of care, including doctors having to perform surgeries without anaesthesia.⁷² This is at a time of immense medical needs, with well over 100,000 persons injured, more than 40,000 of whom have sustained life-altering injuries, including over 10,000 children,⁷³ and two million people who have lived through severe food insecurity, including famine.⁷⁴ Many others bear significant psychological trauma, including children who have all been exposed to traumatic events, the loss of loved ones, and enduring constant fear.⁷⁵ One million people are estimated to require access to mental health care.⁷⁶ Furthermore, over 18,500 persons are reportedly in need of urgent medical evacuation.⁷⁷ Already prior to the hostilities, persons with disabilities and chronic illnesses in Gaza faced severe difficulties accessing the medical care they need.⁷⁸

70 This emanates from GC IV (n 20) arts 55, 59. On the view that proportionality is a general principle of IHL – which has been expressed, amongst others, by the Israeli Supreme Court in its capacity as High Court of Justice (eg HCJ 2056/04 *Beit Sourik Village Council v Gov't of Israel* 58(4) PD 807 [36]–[37]) – a proportionality assessment should be conducted when it comes to other than essential items. Accordingly, an item that poses only a marginal security threat but is of high importance for civilian needs (even if not essential) should be allowed to enter Gaza, while restrictions on the entry of items that pose a considerable security threat but have only limited value for the civilian population may be permissible. It is also worth noting that the term 'dual-use item' is not a legal term of art. See eg 'FAQs: Access to Health Care Supplies and "Dual Use" Items and Restrictions' (PHRI, 9 July 2025) <<https://phr.org/our-work/resources/faqs-access-to-health-care-supplies-and-dual-use-items-and-restrictions/>>; Oona A Hathaway, Azmat Khan, and Mara R Revkin, 'The Dangerous Rise of "Dual-Use" Objects in War' (2025) 134 Yale L J 245.

71 See eg 'UN Experts Appalled by Relentless Israeli Attacks on Gaza's Healthcare System' (OHCHR, 13 August 2025) <<https://www.ohchr.org/en/press-releases/2025/08/un-experts-appalled-relentless-israeli-attacks-gazas-healthcare-system>>; 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/>>; 'Legal Analysis of the Destruction of Healthcare in North Gaza' (IHL Centre, 16 April 2025) <<https://www.diakonia.se/ihl/news/destruction-of-healthcare-north-gaza/>>.

72 See eg 'Israel's Extreme Restrictions on Medical Supplies Entering Gaza Have Caused Death and Anguish: New Study' (Physicians for Human Rights, 9 July 2025) <<https://phr.org/news/israels-extreme-restrictions-on-medical-supplies-entering-gaza-have-caused-death-and-anguish-new-study/>>.

73 On the health impact of the conflict on children, see also the section on protection, care, and education of children below.

74 See eg Gaza Health System Overwhelmed as WHO Reports 42,000 People Have Life-Changing Injuries' (UN News, 2 October 2025) <<https://news.un.org/en/story/2025/10/1166023>>; Sean Seddon, Wahiba Ahmed, and Anna Foster, "Fatal Combination" of Disease, Injuries and Famine in Gaza is Generational Crisis, WHO Tells BBC' BBC News (London, 22 October 2025) <<https://www.bbc.com/news/articles/cnvezzdnmrno>>.

75 See the section on protection, care, and education of children below.

76 See eg 'Ceasefire Offers "Lifeline" but Gaza Hospitals Remain in Ruins' (UN News, 23 October 2025) <<https://news.un.org/en/story/2025/10/1166171>>.

77 Humanitarian Situation Update #353 | Gaza Strip (n 1). For an overview of medical evacuations from Gaza to date, see eg 'Medical Evacuation of Gaza Patients, Oct 2023 – 1 Dec 2025' (WHO, 1 December 2025) <https://www.emro.who.int/images/stories/palestine/Medevac_1Dec25.pdf>.

78 See eg 'Gaza: Looming Humanitarian Catastrophe Highlights Need to Lift Israel's 10-Year Illegal Blockade' (Amnesty International, 14 June 2017) <<https://www.amnesty.org/en/latest/press-release/2017/06/gaza-loomng-humanitarian-catastrophe-highlights-need-to-lift-israels-10-year-illegal-blockade/>>.

Public health risks are further compounded by the catastrophic state of water and sanitation systems. According to reports, 89% of water, sanitation, and hygiene (WASH) infrastructure in Gaza has been damaged or destroyed.⁷⁹ As a result, it is estimated that half of all families in Gaza have access to less than 6 litres of water per person each day.⁸⁰ Furthermore, around 900,000 tons of waste have accumulated across Gaza.⁸¹ Destroyed sanitation systems, debris, and open waste have contributed to the contamination of soil and groundwater,⁸² exacerbating the spread of infectious diseases.⁸³

IHL mandates that the wounded and sick receive the medical care and attention they need with the least possible delay and to the fullest extent practicable.⁸⁴ The parties to the conflict must use their best efforts to achieve this result, including by permitting humanitarian organisations to provide for their protection and care.⁸⁵ Accordingly, medical personnel must be allowed to carry out their work without undue interference.⁸⁶ An occupying power has a specific obligation to ensure the medical supplies of the population.⁸⁷ It must also, in cooperation with the local authorities, ensure and maintain medical establishments and services as well as public health and hygiene to the fullest extent of the means available to it.⁸⁸ This entails taking 'prophylactic and preventive measures necessary to combat the spread of communicable diseases and epidemics', including by means of ensuring the proper functioning of water and sanitation systems.⁸⁹ IHRL provides complementary protections, mandating the occupying power or other actors with control over persons or, arguably, the enjoyment of their rights to respect, protect, and fulfil individuals' 'highest attainable standard of physical and mental health'.⁹⁰

79 'Reported Impact Snapshot | Gaza Strip (14 January 2026)' (OCHA oPt, 14 January 2026) <<https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-14-january-2026>>.

80 'With a Ceasefire in Gaza, UNICEF Begins Assessing the Damage to Water and Wastewater Infrastructure' (UNICEF, 24 October 2025) <<https://www.unicef.org/sop/stories/ceasefire-gaza-unicef-begins-assessing-damage-water-and-wastewater-infrastructure>>. In 2010, the UNGA recognised the right to water and sanitation, including 'access to enough water for personal and domestic uses, meaning between 50 and 100 litres of water per person per day'. See 'Water' (UN) <<https://www.un.org/en/global-issues/water>>. In situations of humanitarian emergencies, the bare minimum is 15 litres. See 'Humanitarian Emergencies' (WHO) <<https://www.who.int/teams/environment-climate-change-and-health/water-sanitation-and-health/environmental-health-in-emergencies/humanitarian-emergencies>>.

81 'UNDP/PAPP's Emergency Response to Solid Waste Management' (UNDP/PAPP, 8 December 2025) <<https://www.undp.org/papp/publications/undp/papps-emergency-response-solid-waste-management-1>>.

82 See eg Mohamed Solaimane, 'Gaza's Environmental Apocalypse: "What We Have Left is Not Soil, It's Contaminated Waste" *El País* (Khan Younis, 26 December 2025) <<https://english.elpais.com/international/2025-12-26/gazas-environmental-apocalypse-what-we-have-left-is-not-soil-its-contaminated-waste.html>>; 'Environmental Impact of the Escalation of Conflict in the Gaza Strip' (UNEP, 23 September 2025) <<https://www.unep.org/resources/report/environmental-impact-escalation-conflict-gaza-strip>>.

83 See eg Amy Sedghi and Hamish Mackay, 'Infectious Diseases in Gaza "Spiralling Out of Control", Says WHO – As It Happened' *The Guardian* (London, 17 October 2025) <<https://www.theguardian.com/world/live/2025/oct/17/israel-gaza-ceasefire-hostages-hamas-benjamin-netanyahu-middle-east-latest-news-updates>>; 'Sewage, Trash and Disease Overwhelm Displaced Communities in Gaza' (UN News, 23 April 2025) <<https://news.un.org/en/story/2025/04/1162531>>.

84 CIHL (n 54) r 110; GCs common art 3; AP I (n 54) art 10; AP II (n 54) art 7.

85 CIHL (n 54) Commentary to r 110.

86 ibid; AP I (n 54) art 15; AP II (n 54) art 9. In occupied territory, this obligation emanates from GC IV (n 20) art 56(1).

87 The occupying power must either provide these supplies itself or, failing this, consent to, allow, and facilitate the delivery of such supplies by others. GC IV (n 20) arts 55(1), 59(1).

88 GC IV (n 20) art 56(1).

89 2025 ICRC Commentary to GC IV (n 22) art 56(1) paras 3484, 3485.

90 International Covenant on Economic, Social, and Cultural Rights of 1966 (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR) art 12(1); 'International Standards on the Right to Physical and Mental Health' (OHCHR) <<https://www.ohchr.org/en/special-procedures/sr-health/international-standards-right-physical-and-mental-health>>. See also Katherine H A Footer and Leonard S Rubenstein, 'A Human Rights Approach to Health Care in Conflict' (2013) 95 Int'l Rev Red Cross 167.

When the requisite medical care is not available in the occupied territory, compliance with relevant IHL and IHRL rules dictates that the occupying power must consent to and facilitate medical evacuations of patients to third countries, which should endeavour to receive them.⁹¹

The parties to the conflict must strictly adhere to their IHL and IHRL obligations regarding access to healthcare and hygiene in the whole territory of Gaza. Accordingly, Israel – or any other actor bound by the law of occupation – must comply with the duty to provide – or, failing this, consent to, allow, and facilitate the passage of – medical supplies, including medicines, anaesthetics, antiseptics, and assistive devices, as well as fuel and equipment for the repair of WASH facilities. Steps must be taken to prevent the spread of communicable diseases and no effort spared to ensure that health facilities and water and sanitation systems, including desalination plants, become functional again, including by restoring power systems as a matter of urgency. When necessary medical treatment is not available inside Gaza, Israel – and other actors with control over the movement of persons in and out of Gaza – must consent to and facilitate medical evacuations of patients to third countries.

(c) Adequate housing

It is estimated that more than 320,000 housing units have been damaged in the course of the hostilities.⁹² As a result, most people in the Gaza Strip currently reside in provisional shelters that fail to meet basic emergency standards – including tents, makeshift tents, and damaged buildings, resulting in loss of life⁹³ – with more than one million people reportedly in need of emergency shelter assistance.⁹⁴ With the onset of winter, seasonal rainfalls have been flooding entire areas and displacement sites, aggravating already deplorable living conditions,⁹⁵ and Palestinians without sturdy shelter, warm clothes, or blankets are left exposed to temperature drops.⁹⁶ Winter is a 'threat multiplier' particularly for children.⁹⁷ Humanitarian providers who have been able to deliver shelter materials have already warned that existing efforts do not meet current needs.⁹⁸

91 This can be read into the obligation set out in CIHL (n 54) r 110 that '[t]he wounded, sick and shipwrecked must receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition', as well as the obligation under IHRL to respect, protect, and fulfil the highest attainable standard of physical and mental health set out in the ICESCR (n 90) art 12(1). It is worth noting that medical evacuation when treatment is not available in the occupied territory was explicitly foreseen by the drafters of GC IV as an exception to the prohibition of removing protected persons from occupied territory. 2025 ICRC Commentary to GC IV (n 22) art 49(1) para 3185.

92 'Reported Impact Snapshot | Gaza Strip (17 December 2025)' (OCHA oPt, 17 December 2025) <<https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-17-december-2025>>. The Israeli military has reportedly continued to destroy thousands of buildings – including entire neighbourhoods – in areas under its control since the conclusion of the ceasefire in October 2025. See eg Benedict Garman and Barbara Metzler, 'Israel Has Destroyed More than 1,500 Buildings in Gaza Since Ceasefire' BBC Verify (London, 12 November 2025) <<https://www.bbc.com/news/articles/c0mxylxw48yo>>.

93 The Ministry of Health in Gaza reports that since mid-December, 25 people have died in the collapse of damaged buildings. See Humanitarian Situation Update #353 | Gaza Strip (n 1). See also Daniel Johnson, 'Another Child Dies in Extreme Conditions in Gaza: UNICEF' (UNICEF, 31 December 2025) <<https://news.un.org/en/story/2025/12/1166686>>.

94 This is according to the Shelter Cluster. See Humanitarian Situation Update #353 | Gaza Strip (n 1). <https://www.ochaopt.org/content/humanitarian-situation-update-344-gaza-strip>

95 See eg 'Gaza / Winter Deteriorating Conditions' (UN Media, 26 November 2025) <<https://media.un.org/unifeed/en/asset/d350/d3508253>>; 'Floods Swamp Homeless Palestinians' Tents in Gaza as Winter Looms' Reuters (Gaza/Cairo, 25/26 November 2025) <<https://www.reuters.com/business/environment/floods-swamp-homeless-palestinians-tents-gaza-winter-looms-2025-11-25/>>.

96 See eg 'Malnutrition Persists as Winter Sets in, Threatening Children's Lives and Wellbeing in Gaza' (UNICEF, 28 November 2025) <<https://www.unicef.org/press-releases/malnutrition-persists-winter-sets-threatening-childrens-lives-and-wellbeing-gaza>>; Wafaa Shurafa and Bassem Mroue, 'A Winter Storm Chills Gaza and Floods Tent Camps, Exposing Aid Failures' The Associated Press (Deir al-Balah, Gaza Strip, 12 December 2025) <<https://apnews.com/article/mideast-wars-gaza-storm-12-11-2025-d92be5d741f6fb9f98dd3e360b99b8e4>>.

97 'Humanitarian Situation Update #344 | Gaza Strip' (OCHA oPt, 27 November 2025) <<https://www.ochaopt.org/content/humanitarian-situation-update-344-gaza-strip>>.

98 *ibid.*

International law protects housing in armed conflict in multiple ways. While IHL imposes obligations on parties to the conflict, IHRL – and in particular the right to adequate housing – complements and informs these duties towards individuals under their control, including in occupied territory.⁹⁹ IHL protects homes by prohibiting attacks on civilian objects in the conduct of hostilities and the destruction of property in territory under the control of a party.¹⁰⁰

When homes are nonetheless damaged or destroyed during the conflict, IHL and IHRL require the provision of adequate shelter.¹⁰¹ In occupied territory, this responsibility primarily rests with the occupying power, which must, to the fullest extent of the means available to it, supply adequate shelter and other supplies essential for the survival of the civilian population.¹⁰² This obligation complements the broader duty of the parties to the conflict to treat those who do not or no longer take part in hostilities (including civilians) humanely, at all times.¹⁰³ As noted, if the occupying power fails to provide adequate shelter supplies to the population, it is under an unqualified obligation to consent to the delivery, by impartial humanitarian organisations, of the materials, equipment, and personnel necessary to ensure adequate shelter, as well as to allow and facilitate the rapid and unimpeded passage of such relief.¹⁰⁴

Housing is also protected by the prohibition of forced displacement.¹⁰⁵ When civilians are nonetheless displaced, the parties to the conflict must take all possible measures to ensure that they benefit from satisfactory conditions of shelter.¹⁰⁶ Displaced persons retain the right to safe, voluntary, and dignified return to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist; in the meantime, their property rights must be respected.¹⁰⁷

The parties to the conflict must refrain from unlawfully attacking or otherwise destroying Palestinians' homes and shelters in the whole territory of Gaza, and from forcibly displacing them. Israel – and any other actor bound by the law of occupation – must consent to, allow, and facilitate the rapid and unimpeded delivery of materials, equipment, and personnel necessary to provide adequate emergency shelter and to rebuild damaged and destroyed homes in the whole territory of Gaza while respecting property rights. The parties to the conflict as well as all actors involved in the implementation of resolution 2803 and the 20-point plan must put in place the conditions for the realisation of displaced Palestinians' right to safe, voluntary, and dignified return across the whole territory of Gaza.

99 The right to adequate housing is derived from the right to an adequate standard of living pursuant to ICESCR (n 90) art 11(1), and has been acknowledged as being of 'central importance for the enjoyment of all economic, social and cultural rights'. CESCR 'General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)' (13 December 1991) UN Doc E/1992/23 (CESCR General Comment 4) para 1.

100 See the section on public and private property below.

101 As noted by the CESCR, the right to adequate housing entails not only a right to have 'a roof over one's head', but also 'the right to live somewhere in security, peace and dignity'. Thus, the concept of adequacy entails several aspects including habitability, accessibility, location, as well as availability of facilities essential for health, security, comfort, and nutrition. See CESCR General Comment 4 (n 99) paras 7–8.

102 GC IV (n 20) art 55. As noted by the ICRC, the drafting history of this article indicates that it should be interpreted as covering not just food and medical supplies but also other urgently needed essential supplies, including shelter. See 2025 ICRC Commentary to GC IV (n 22) para 3453. See also AP I (n 54) art 69; CIHL (n 54) r 55.

103 'Humane treatment' is a broad concept that has been interpreted, *inter alia*, to require parties to an armed conflict to provide essential items, including shelter supplies. See Oxford Guidance (n 59) para 14; ICRC Q&A (n 58) 365–366.

104 See the section on humanitarian relief and commercial supplies above.

105 See the section on displacement below.

106 CIHL (n 54) r 132.

107 *ibid* rr 132, 133. See also the section on displacement below.

(d) Protection, care, and education of children

By December 2023, Gaza was already being described as 'the most dangerous place in the world to be a child'.¹⁰⁸ Two years later, this tragic reality has only worsened. Over 18,000 children have been killed, and many more have been injured, displaced, and lived through famine.¹⁰⁹ Every child in Gaza has experienced loss and has been exposed to violence, leaving an estimated 1.1 million children in need of child protection services as well as mental health and psychosocial support.¹¹⁰ Over 58,000 children in Gaza are estimated to have lost one or both parents.¹¹¹ Children who are unaccompanied or separated from their parents 'face heightened risks of ... exploitation, neglect, starvation and lasting mental trauma'.¹¹²

Children surviving amputations endure not only the trauma of life-changing injury, but also chronic shortages of rehabilitation and assistive services, further undermining their health, dignity, and recovery.¹¹³ Severely damaged healthcare infrastructure, acute shortages of medicine and clean water, and the spread of disease compound the suffering of children who have already endured unimaginable trauma.¹¹⁴

More than 630,000 children have not been able to go to school for over two years,¹¹⁵ with over 90% of schools having sustained severe damage over the course of the hostilities.¹¹⁶ Israel has reportedly rejected the entry of educational supplies – including pencils, erasers, and other basic items – on the grounds that they 'fall outside the "humanitarian" category'.¹¹⁷

108 'UNICEF Geneva Palais Briefing Note – Gaza: The World's Most Dangerous Place to be a Child' (UNICEF, 19 December 2023) <<https://www.unicef.org/press-releases/unicef-geneva-palais-briefing-note-gaza-worlds-most-dangerous-place-be-child>>.

109 'Young Lives Cut Short on an Unimaginable Scale: The 18,457 Children on Gaza's List of War Dead' *The Guardian* (London, 8 October 2025) <<https://www.theguardian.com/world/ng-interactive/2025/oct/08/young-lives-cut-short-on-an-unimaginable-scale-the-18457-children-on-gazas-list-of-war-dead>>.

110 See eg 'Humanitarian Situation Report No. 45 – State of Palestine' (UNICEF, 31 December 2025) <<https://www.unicef.org/media/177756/file/SOP-Humanitarian-SitRep-30-November-2025.pdf>>; 'We Close Our Eyes and Imagine What We Want to Become' (UNICEF, 4 November 2025) <<https://www.unicef.org/stories/we-close-our-eyes-and-imagine-what-we-want-become>>.

111 'Gaza's Ceasefire Offers a Vital Chance for Children – It Must be Seized' (UNICEF, 26 October 2025) <<https://www.unicef.org/press-releases/gazas-ceasefire-offers-vital-chance-children-it-must-be-seized>>. See also Julian Borger and Seham Tantesh, 'No Family, No Stability, No Social Fabric: The Anguish of Gaza's Wounded Orphans' *The Guardian* (London, 10 October 2025) <<https://www.theguardian.com/world/2025/oct/10/no-family-stability-social-fabric-harm-inflicted-gaza-children-incalculable>>.

112 'How is War Affecting Children in Gaza?' (International Rescue Committee, 14 August/24 September 2025) <<https://www.rescue.org/article/how-war-affecting-children-gaza>>.

113 Gaza has the highest number of child amputees per capita anywhere in the world. See eg 'Percentage of Persons with Disabilities in Gaza Has Increased because of Excessive Use of Force by Israel, State of Palestine Tells Committee on Rights of Persons with Disabilities' (OHCHR) <<https://www.ohchr.org/en/meeting-summaries/2025/08/percentage-persons-disabilities-gaza-has-increased-because-excessive-use>>; Maire Jo Sader, 'The Despair of Gaza's Last Prosthetics Makers' *Le Monde* (Paris, 13/14 August 2025) <https://www.lemonde.fr/en/international/article/2025/08/13/the-despair-of-gaza-s-last-prosthetics-makers_6744331_4.html>; 'Amputation Crisis in Conflict Zones: Report Reveals Urgent Need for Rehabilitation Services in Gaza, Syria and Ukraine' (Handicap International, 2 April 2025) <<https://www.humanity-inclusion.org.uk/en/amputation-crisis-in-conflict-zones-report-reveals-urgent-need-for-rehabilitation-services-in-gaza-syria-and-ukraine>>.

114 See eg 'Statement | Two Years On: The Unbearable Cost of War for a Generation of Children' (IHL Centre, 7 October 2025) <<https://www.diakonia.se/ihl/news/statement-two-years-on-the-unbearable-cost-of-war-for-a-generation-of-children>>.

115 See eg Reported Impact Snapshot | Gaza Strip (14 January 2026) (n 79); 'Gaza: With a Suitcase for a School Bag, Classrooms Have Become Shelters' (UN News, 3 September 2025) <<https://news.un.org/en/story/2025/09/1165765>>.

116 Reported Impact Snapshot | Gaza Strip (14 January 2026) (n 79). 'Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, Including East Jerusalem, and Israel' (6 May 2025) UN Doc A/HRC/59/26 paras 12-20.

117 'Humanitarian Situation Update #338 | Gaza Strip' (OCHA oPt, 6 November 2025) <<https://www.ochaopt.org/content/humanitarian-situation-update-338-gaza-strip>>. See Wafaa Shurafa and Kareem Chehayeb, 'Most of Gaza's Schools are Destroyed and Hundreds of Thousands of Children Cannot Go Back to Class' *The Associated Press* (Deir al-Balah, Gaza Strip, 17 November 2025) <<https://apnews.com/article/gaza-israel-schools-war-children-0ed9ac47e5273258c69ed46d724d0f33>>.

Trauma, loss, and deprivation endured in the formative years of childhood can have lifelong consequences.¹¹⁸ When such experiences are shared by an entire generation, their deleterious effects are likely to reverberate across an entire society, threatening its fabric, resilience, and future.¹¹⁹ For these reasons, international law places particular emphasis on the protection of children. Parties to an armed conflict must take special care to shield them from harm.¹²⁰

In particular, an occupying power has an obligation to facilitate, in cooperation with the national and local authorities, the proper working of institutions dedicated to the care and education of children – which encompasses all services necessary for their physical and mental health, welfare, maintenance, and protection.¹²¹ This entails 'providing administrative, financial or material support so that [these institutions] have suitable premises and access to the necessary food, sanitation, health care, safety and security' as well as '[s]upport ... to re-establish services disrupted by the conflict'.¹²² This may include ensuring temporary learning services until permanent services are restored.¹²³ Pursuant to the overarching rules of humane treatment and non-discrimination, the occupying power must discharge these duties taking due account of the heightened vulnerability of children with disabilities.¹²⁴ The occupying power must also comply with its obligations regarding the right to education as developed under IHRL.¹²⁵

In addition, the occupying power must facilitate and make the necessary arrangements for the maintenance and education of children who have lost or are separated from their parents.¹²⁶ The measures taken to this end must prioritise family or community-based alternatives, and the institutionalisation of children must be avoided to the greatest extent possible.¹²⁷

IHRL further informs, and adds to, the obligations of the occupying power as well as any other actors exercising control over children or the enjoyment of their rights.¹²⁸ In particular, in all their actions affecting children, the best interests of the child must be a primary consideration.¹²⁹ Importantly, these actors must take all necessary measures to protect children from all forms of violence, abuse, and exploitation, as well as to prevent child trafficking.¹³⁰

118 Statement | Two Years On: The Unbearable Cost of War for a Generation of Children (n 114).

119 *ibid*.

120 CIHL (n 54) r 135; AP I (n 54) art 77(1); AP II (n 54) art 4(3).

121 GC IV (n 20) art 50(1). 2025 ICRC Commentary to GC IV (n 22) art 50(1) para 3259.

122 2025 ICRC Commentary to GC IV (n 22) art 50 (1) para 3262.

123 See eg 'Seek to Ensure the Continuation of Education During Armed Conflict (Global Coalition to Protect Education from Attack) <<https://ssd.protectingeducation.org/implementation/seek-to-ensure-the-continuation-of-education-during-armed-conflict/>>.

124 See eg GC IV (n 20) arts 3, 13, 27(1), 27(3). See also 'Minimum Standards for Education: Preparedness, Response, Recovery' (Inter-Agency Network for Education in Emergencies, 2024) 129 <<https://inee.org/sites/default/files/resources/INEE%20Minimum%20Standards%202024%20v2.7%20Web.pdf>>; 'Including Children with Disabilities in Humanitarian Action: Education' (UNICEF, 2017) <<https://www.unicef.org/media/152506/file/Disability-Inclusive%20in%20Humanitarian%20Action:%20Education%20EN.pdf>>.

125 ICESCR (n 90) art 13(1); Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (CRC) art 28.

126 GC IV (n 20) art 50(3). See also *ibid* art 24(1), which imposes a similar obligation (concerning children under the age of 15) applicable to 'the whole of the populations of the countries in conflict'. 2025 ICRC Commentary to GC IV (n 22) art 50 para 3277.

127 UNGA 'Guidelines for the Alternative Care of Children' (2010) UN Doc A/RES/64/142 para 23. See also 2025 ICRC Commentary to GC IV (n 22) art 24 para 2082 and art 50 para 3282.

128 See particularly the CRC (n 125).

129 CRC (n 125) art 3; 2025 ICRC Commentary to GC IV (n 22) Introduction para 58.

130 CRC (n 125) arts 19, 34, 35.

Adherence to these obligations is essential to ensuring the safety, dignity, and future of Palestinian children and thus to preserving the Palestinian people's existence and preventing the cycle of violence from consuming future generations.¹³¹

The parties to the conflict must comply with their obligations regarding the protection, care, and education of children in the whole territory of Gaza, which must be recognised as a humanitarian priority.¹³² Israel – and any other actor bound by the law of occupation – must consent to, allow, and facilitate the entry into Gaza of materials, such as concrete, to rebuild damaged schools and institutions dedicated to the care of children as well as of supplies necessary for their proper functioning, such as educational supplies and psychosocial support materials. Furthermore, pending the rehabilitation of these facilities, it must consent to child protection, mental health, and psychosocial support programmes that are humanitarian in nature and carried out by impartial humanitarian organisations, as well as allow and facilitate the passage of supplies and personnel required to deliver such programmes. Alternative mechanisms ensuring continued and safe access to care and education, such as temporary learning spaces, must be set up. Specific vulnerabilities must be duly taken into account, including in particular the needs of children with disabilities.

(e) Displaced persons

Nearly the entire population of Gaza has been internally displaced over the course of the hostilities, often multiple times over.¹³³ They are left in overcrowded shelters, makeshift sites, or damaged buildings, without access to running water and electricity, surrounded by piles of rubbish and overflowing sewage, resulting in severe adverse health impacts, amongst other ordeals.¹³⁴ Displacement has occurred not only in direct response to Israel's repeated instructions for civilians to relocate, including large-scale directives for residents of northern Gaza to move south, but also as a result of the coercive environment imposed by Israel's military operations and the deprivation of life-sustaining resources.¹³⁵ In addition, the Israeli government has on multiple occasions floated the expulsion of Palestinians from Gaza, prompting grave concerns about ethnic cleansing.¹³⁶

IHL prohibits the forcible displacement of civilians save in exceptional, narrowly defined circumstances.¹³⁷ The law of occupation specifically prohibits an occupying power from

131 Statement | Two Years On: The Unbearable Cost of War for a Generation of Children (n 114).

132 UNGA 'Report of the Special Rapporteur on the Right to Education, Farida Shaheed. Right to Education in Armed Conflict: A Human Rights Imperative' (15 October 2025) UN Doc A/80/479 paras 3, 47.

133 See eg 'UNRWA Situation Report #148 on the Humanitarian Crisis in the Gaza Strip and the West Bank, Including East Jerusalem' (UNRWA, 22 November 2024) <<https://www.unrwa.org/resources/reports/unrwa-situation-report-148-situation-gaza-strip-and-west-bank-including-east-jerusalem>>.

134 See eg 'Humanitarian Situation Update #340 | Gaza Strip' (OCHA oPt, 12 November 2025) <<https://www.ochaopt.org/content/humanitarian-situation-update-340-gaza-strip>>.

135 For a legal analysis, see Eitan Diamond and Ellen Nohle, 'Humanitarian Displacement? The (Mis)Appropriation of Humanitarian Principles to Justify Mass Displacement' 27 Yearbook Int'l Hum Law (forthcoming).

136 See eg Dana Karni, Tim Lister, and Nadeen Ebrahim, 'Israel Approves Controversial Proposal to Facilitate Emigration of Palestinians from Gaza' CNN (Atlanta, 24 March 2025) <<https://edition.cnn.com/2025/03/24/middleeast/israel-approves-proposal-to-facilitate-emigration-of-palestinians-from-gaza-intl>>; 'From Declaration to Action: Israel is Carrying Out Ethnic Cleansing in Gaza' (B'Tselem, 3 April 2025) <https://www.btselem.org/press_releases/20250403_from_declaration_to_action_israel_is_carrying_out_ethnic_cleansing_in_gaza>; Nagham Zbeedat, "'Israel Is Pushing Us Out": Plan to Open Gaza's Rafah Crossing Leaves Palestinians With More Questions Than Answers' Ha'aretz (Tel Aviv, 8 December 2025) <<https://www.haaretz.com/gaza/2025-12-08/ty-article-magazine/premium/plan-to-open-gazas-rafah-crossing-leaves-palestinians-with-more-questions-than-answers/0000019a-ff30-de33-a59e-fff1b8ea0000>>.

137 CIHL (n 54) r 129; AP II (n 54) art 17.

deporting protected persons either to its own territory or to the territory of another State, as well as from forcibly transferring them within the occupied territory.¹³⁸ It only envisions the temporary evacuation of civilians under adequate conditions of safety and hygiene for 'imperative military reasons' or to ensure their own security.¹³⁹

Displacement can be forcible if imposed by taking advantage of a 'coercive environment', leaving the affected persons no 'genuine choice but to leave'.¹⁴⁰ When displacement does happen, IHL obliges the parties to the conflict to take all possible measures to ensure that displaced civilians benefit from satisfactory conditions of shelter, hygiene, health, safety, and nutrition, and that members of the same family are not separated.¹⁴¹ Displaced persons also have a right to voluntary return in safety and dignity to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist.¹⁴²

It is striking that the 20-point plan and Security Council resolution 2803 completely ignore the plight of Palestinians in Gaza who have been displaced. Neither contains a provision aimed at protecting or assisting them, or at ensuring their safe and voluntary return. Furthermore, there is serious concern that the very arrangements set out in both documents – in particular the division of Gaza along the 'yellow line', which reportedly keeps moving¹⁴³ and with parts not under Israeli control allegedly to be left in ruins¹⁴⁴ – are themselves a driver of displacement. While the 20-point plan states that '[n]o one will be forced to leave Gaza, and those who wish to leave will be free to do so and free to return',¹⁴⁵ whether or not any departure from, or movement within Gaza is truly voluntary will depend on a case-by-case assessment, not blanket stipulations in abstract. Indeed, the catastrophic circumstances that have been prevailing in Gaza will continue to amount to a 'coercive environment' for the foreseeable future if no radical mitigation measures are taken. It could in fact be argued that the life-threatening conditions created by Israel in Gaza justify applying a presumption that departure from, and movement within Gaza is forcible on account of the prevailing circumstances.

In line with their obligations under IHL, the parties to the conflict must take urgent and concrete measures to address the humanitarian assistance and protection needs of displaced persons in the whole territory of Gaza – including in terms of shelter, hygiene, health, safety, and family reunification – as well as to ensure their safe, voluntary, and dignified return. They must explicitly acknowledge the prohibition of forcible displacement, desist from themselves causing such displacement, and offer the necessary guarantees to prevent further unlawful transfers or deportations. It is worth noting in this regard that the US proposal to set up 'Alternative Safe Communities' in Israeli-controlled eastern Gaza

138 GC IV (n 20) art 49(1).

139 *ibid* arts 49(2) and 49(3).

140 *Prosecutor v Mladić* (Judgment) IT-09-92-T (22 November 2017) [3147]. See also *Prosecutor v Krstić* (Judgment) IT-98-33-T (2 August 2001) [529], citing 'Report of the Preparatory Commission for the International Criminal Court, Finalised Draft Text of the Elements of the Crimes' (6 July 2000) UN Doc PCNICC/2000/INF/3/Add.2 11.

141 CIHL (n 54) r 131; GC IV (n 20) art 49(3); AP II (n 54) arts 4(3)(b), 17(1).

142 CIHL (n 54) r 132; GC IV (n 20) art 49(2).

143 See eg Ezzidin and Frankel (n 3); Nagham Zbeedat, "The Walls Are Closing In": Gazans Say the Position of the Yellow Line Changes, Funneling Them Into a Tightening Area' *Ha'aretz* (Tel Aviv, 16 December 2025) <<https://www.haaretz.com/gaza/2025-12-16/ty-article/.premium/gazans-say-the-position-of-the-yellow-line-changes-funneling-them-into-a-tightening-area/0000019b-2719-dc39-abb-b-fffbaaa70000>>.

144 See eg Emma Graham-Harrison, 'US Military Planning for Divided Gaza with "Green Zone" Secured by International and Israeli Troops' *The Guardian* (London, 14 November 2025) <<https://www.theguardian.com/world/2025/nov/14/us-military-plan-divided-gaza-green-zone>>.

145 Trump's 20-Point Gaza Peace Plan in Full (n 4) pt 12.

(where reconstruction would reportedly advance, unlike in the areas still held by Hamas) to house displaced persons stands to trigger further unlawful displacement and to leave large segments of the population in other parts of the Strip in conditions of deprivation.¹⁴⁶

(f) Protection of detainees

As of January 2026, 9,243 Palestinians are reportedly still being detained by the Israel Prison Service, including 1,237 pursuant to the so-called 'Unlawful Combatants Law' that Israel applies to Palestinians from Gaza.¹⁴⁷ This includes hundreds of Palestinian children from Gaza and the West Bank, including East Jerusalem, with approximately one third of these children held in administrative detention, without charge or trial.¹⁴⁸ It is unclear how many Palestinians from Gaza are still being held in detention facilities run by the Israeli military.¹⁴⁹

Extensive documentation attests to Palestinian detainees – including children – being subjected to systematic torture and ill-treatment, including sexual violence, as well as being held in inhumane conditions, in addition to being denied ICRC visits, access to legal counsel, and contact with family members.¹⁵⁰

Arbitrary deprivation of liberty is prohibited at any time,¹⁵¹ as is torture as well as cruel and inhuman treatment.¹⁵² There are longstanding concerns over the compliance of criminal trials before Israeli military courts in the oPt (and related detention of Palestinians) with the applicable

146 It may also entail unlawful confinement/arbitrary detention as well as unlawful restrictions on Palestinians' freedom of movement. The proposed involvement of military forces would further be difficult to reconcile with the parties' obligation to protect civilians and humanitarian personnel. See eg David M Halbfinger and others, 'U.S. Plans Compounds to House Palestinians in Israeli-Held Half of Gaza' *The New York Times* (Jerusalem, Tel Aviv, and Kiryat Gat, 25 November 2025) <<https://www.nytimes.com/2025/11/25/world/middleeast/us-compounds-palestinians-israel-gaza-strip.html>>; Lucy Williamson, 'Trump's Gaza Peace Plan Struggles to Progress as Israel and Hamas Face Tough Choices' *BBC News* (Jerusalem, 12 December 2025) <<https://www.bbc.com/news/articles/c2lvplrxpe9o>>. See also the section on humanitarian relief and commercial supplies above as well as the section on access to property below.

147 Trump's 20-Point Gaza Peace Plan in Full (n 4) pts 4 and 5; "'Security' Inmates in Prisons Inside Israel' (HaMoked, last updated 4 January 2025) <<https://hamoked.org/>>.

148 See eg '37 Percent of Palestinian Child Detainees Held Without Charge as Israel Blocks Legal Counsel and Family Access' (Defense for Children International, 21/22 May 2025) <https://www.dci-palestine.org/37_percent_of_palestinian_child_detainees_held_without_charge_as_israel_blocks_legal_counsel_and_family_access>; 'Statistics on Palestinian Minors in Israeli Custody' (B'Tselem, 26 November 2025) <https://www.btselem.org/statistics/minors_in_custody>.

149 Previously, it was estimated that thousands of Palestinians from Gaza were being held in military detention camps, where they were being subjected to torture and severe ill-treatment. See eg International Investigations and Visuals teams, 'Strapped Down, Blindfolded, Held in Diapers: Israeli Whistleblowers Detail Abuse of Palestinians in Shadowy Detention Center' *CNN* (Sde Teiman, Israel, 11 May 2024) <<https://edition.cnn.com/2024/05/10/middleeast/israel-sde-teiman-detention-whistleblowers-intl-cmd>>. See also 'Detention Fact Sheet 2025' (PCATI, June 2025) <<https://stoptorture.org.il/en/detention-fact-sheet-2025/>>.

150 For an overview of torture and ill-treatment of both criminal and administrative detainees as well as denial of contact with the outside world, see eg 'Welcome to Hell: The Israeli Prison System as a Network of Torture Camps' (B'Tselem, August 2024) <https://www.btselem.org/sites/default/files/publications/202408>Welcome_to_hell_eng.pdf>; 'Living Hell: The Israeli Prison System as a Network of Torture Camps' (B'Tselem, January 2026) <https://www.btselem.org/sites/default/files/publications/202601_living_hell_eng.pdf>; Emma Graham-Harrison and Quique Kierszenbaum, "'I Could Not Stay Silent': Palestinian Prisoner Tells of Sexual Abuse in Israeli Jail' *The Guardian* (Qalqilya, 21 January 2026) <<https://www.theguardian.com/world/2026/jan/21/not-stay-silent-palestinian-prisoner-sexual-abuse-israeli-jail>>. On children, see Defense for Children International (n 148); 'Physical Abuse, Infectious Disease Spreading as Conditions for Palestinian Children in Israeli Military Detention Deteriorate' (Save the Children, 22 July 2024) <<https://www.savethechildren.org.uk/news/media-centre/press-releases/2024/physical-abuse-infectious-disease-spreading-as-conditions-for-palestinian-children-in-israeli-military-detention-deteriorate>>.

151 CIHL (n 54) r 99.

152 GCs common art 3; GC IV (n 20) arts 27①, 32, 147; AP I (n 54) art 75(2); AP II (n 54) art 4(2); CIHL (n 54) r 90; 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) art 2.

IHL and IHRL standards.¹⁵³ Such concerns also exist with regards to administrative detention. For example, the detention of Palestinians from Gaza pursuant to the 'Unlawful Combatants Law' as well as policies put in place by the Israeli authorities in this regard do not comply with IHL and IHRL standards as to the permissible grounds for and duration of detention, the requisite procedure, and extensive treatment guarantees, including protection from torture and contact with the outside world, thus creating an environment conducive to violations of the prohibition of enforced disappearance.¹⁵⁴

Children in particular must not be detained – including during armed conflict – except as a measure of last resort and for the shortest appropriate period of time.¹⁵⁵ If they are nonetheless detained, they are entitled to special protection, including preferential treatment regarding food, medical care, and protection, and the child's best interests should be the primary consideration when taking actions that affect them.¹⁵⁶

Israel must bring all unlawful deprivations of liberty and enforced disappearances to an end. It must ensure that Israeli soldiers and officials desist from committing acts of torture, cruel or inhuman treatment. Israel must further repeal amendments to the Unlawful Combatants Law and all other legislation that is not in compliance with IHL and IHRL standards as well as adopt the requisite administrative and practical measures to comply with international law standards regarding international oversight and detainees' contact with the outside world, including visits by the ICRC. This cannot be conditioned upon reciprocity, and those unlawfully detained may not be used as bargaining chips. Israel should also cooperate with the Working Group on Arbitrary Detention, the Committee against Torture, and the United Nations Special Rapporteur on torture.



¹⁵³ Including trial and detention in the oPt (as opposed to in Israel); access to legal counsel; prompt initiation of proceedings; respect of fair trial guarantees; disclosure of all incriminating evidence; the imposition of proportionate penalties; as well as protection from torture and ill-treatment. See eg UNHRC 'Human Rights Situation in the Occupied Palestinian Territory, Including East Jerusalem: Report of the High Commissioner for Human Rights' (21 February 2018) UN Doc A/HRC/37/42; 'The Israeli Military Court System' (Addameer, July 2017) <https://addameer.ps/israeli_military_judicial_system/military_courts>.

¹⁵⁴ 'Unlawful Incarceration: Legal Analysis of Israel's Military Detention Regime' (IHL Centre, 30 August 2024) <<https://www.diakonia.se/ihl/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.diakonia.se/ihl/news/opinion-icrc-access-detention-protected-persons/>>.

¹⁵⁵ CRC (n 125) art 37(b). See also UNGA 'United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)' (29 November 1985) UN Doc A/RES/40/33 (Annex) art 13.1.

¹⁵⁶ 2025 ICRC Commentary to GC IV (n 22) art 76 para 4220; 'Children and Detention' (ICRC, November 2014) <<https://www.icrc.org/sites/default/files/external/doc/en/assets/files/publications/icrc-002-4201.pdf>>; UNGA 'United Nations Rules for the Protection of Juveniles Deprived of their Liberty' (14 December 1990) UN Doc A/RES/45/113 (Annex).

(g) The missing and dead

There are serious concerns regarding the treatment of the missing and dead in Gaza. It is estimated that more than 10,000 – and possibly as many as 14,000 – persons in Gaza, including children, are missing; many are presumed to lie trapped underneath the rubble of collapsed buildings.¹⁵⁷ The remains of Palestinian detainees must still be identified, many of whom reportedly bear signs of torture, severe ill-treatment, and possibly execution.¹⁵⁸ Other grounds for concern have been the difficulties locating the bodies of hostages.¹⁵⁹

In these circumstances, DNA testing materials are essential to identify human remains as well as unaccompanied and separated children, and to clarify the fate of missing persons, including children. Israel's refusal to grant the entry of such materials is severely complicating and delaying these efforts.¹⁶⁰ In addition, the extensive destruction as well as lack of heavy machinery has left some 'to dig through rubble with their bare hands'.¹⁶¹ A shortage of shrouds, '[c]lement, stone and tiles' as well as overcrowded cemeteries furthermore render dignified burials difficult.¹⁶²

Parties to an armed conflict have an obligation to take feasible measures to account for the missing and to provide any information about their fate to their next of kin.¹⁶³ They must also search for and collect the dead whenever circumstances allow, and return their remains as well as personal effects.¹⁶⁴ The dead must be treated with dignity, and the parties must take steps to ensure that their bodies are not despoiled.¹⁶⁵ The remains of the dead must be disposed of in a respectful manner, and gravesites must be respected and maintained.¹⁶⁶ As in the case of other IHL obligations, compliance with these rules is not subject to reciprocity.¹⁶⁷

¹⁵⁷ See eg Lorenzo Tondo and Seham Tantesh, 'The Grim Task of Recovering Thousands of Bodies from the Rubble of Gaza' *The Guardian* (Jerusalem and Gaza, 2 November 2025) <<https://www.theguardian.com/world/2025/nov/02/the-grim-task-of-recovering-thousands-of-bodies-from-the-rubble-of-gaza>>; Ahmed Ahmed and Ahmed Alsammak, "'The War is Over, so Why Haven't They Come Back?': The Search for Gaza's Missing' +972 Magazine (Tel Aviv, 10 November 2025) <<https://www.972mag.com/search-gaza-missing-disappeared/>>.

¹⁵⁸ See eg Lorenzo Tondo and Seham Tantesh, 'At Least 135 Mutilated Bodies of Palestinians Had Been Held at Notorious Israeli Jail, Say Gaza Officials' *The Guardian* (Jerusalem and Gaza, 20 October 2025) <<https://www.theguardian.com/world/2025/oct/20/mutilated-bodies-palestinians-held-notorious-israeli-jail-gaza-officials>>.

¹⁵⁹ See eg Wafaa Shurafa, Julia Frankel, and Samy Magdy, 'Israel Returns 15 More Palestinian Bodies to Gaza as First Phase of Ceasefire Nears End' *The Associated Press* (Khan Younis, Gaza Strip, 27 November 2025) <<https://apnews.com/article/mideast-wars-israel-gaza-11-26-2025-5f282ab434207591ca69523d3884ee92>>; Tania Krämer, 'Israeli Family Waits for Remains of Last Hostage' *Deutsche Welle* (Tel Aviv, 13 December 2025) <<https://www.dw.com/en/israeli-family-waits-for-remains-of-last-hostage/video-75140964>>.

¹⁶⁰ See eg Tondo and Tantesh, The Grim Task of Recovering Thousands of Bodies from the Rubble of Gaza (n 157).

¹⁶¹ Seham Tantesh and William Christou, "'My Heart is Broken': Palestinians Begin Searching the Gaza Rubble for their Dead' *The Guardian* (Gaza and Jerusalem, 12 October 2025) <<https://www.theguardian.com/world/2025/oct/12/my-heart-is-broken-palestinians-begin-searching-the-gaza-rubble-for-their-dead>>.

¹⁶² Nagham Mohanna, 'Even Gaza's Dead Struggle for Peace as War Leads to Shortage of Graves' *The National* (Abu Dhabi, 8 July 2025) <<https://www.thenationalnews.com/news/mena/2025/07/08/even-gazas-dead-struggle-for-peace-as-war-leads-to-shortage-of-graves>>. See Nidal Al-Mughrabi and Mahmoud Issa, 'More Gazans Die Seeking Aid and from Hunger; Burial Shrouds in Short Supply' *Reuters* (Cairo and Gaza, 4 August 2025) <<https://www.reuters.com/world/middle-east/more-gazans-die-seeking-aid-hunger-burial-shrouds-short-supply-2025-08-04/>>.

¹⁶³ CIHL (n 54) r 117.

¹⁶⁴ *ibid* rr 112, 114.

¹⁶⁵ *ibid* r 113.

¹⁶⁶ *Ibid* r 115. Ensuring that the dead can be buried with dignity and in accordance with local customs can also be read into the occupying power's obligation to maintain public order and civil life. Hague Regulations (n 22) art 43. See also Janina Dill, 'No Peace for the Dead: Legal Questions About Israel's Destruction of Cemeteries in Gaza' (*EJIL:Talk!*, 31 January 2024) <<https://www.ejiltalk.org/no-peace-for-the-dead-legal-questions-about-israels-destruction-of-cemeteries-in-gaza/>>.

¹⁶⁷ CIHL (n 54) r 140.

The 20-point plan not only fails to integrate any of these obligations; it provides that '[f]or every Israeli hostage whose remains are released, Israel will release the remains of 15 deceased Gazans'.¹⁶⁸ In conditioning the return of remains on reciprocal action, it introduces an element of conditionality irreconcilable with the non-reciprocal nature of the parties' obligations under IHL.

The parties to the conflict must comply with their obligations regarding the missing and dead in the whole territory of Gaza. Accordingly, Israel – and any other concerned States – should allow the entry into Gaza of equipment and personnel necessary to clear rubble and recover the remains of the dead, DNA testing materials to facilitate family reunification and the identification of missing persons, as well as shrouds, stones, tiles, cement, and other supplies necessary to prepare graves and bury the dead. Israel should also grant access to the International Commission on Missing Persons. Bodies bearing signs of mistreatment and unlawful killings must lead to prompt investigations.

(h) Private and public property

i. Destruction of property

As noted, much of Gaza's built-up infrastructure has been destroyed.¹⁶⁹ This is the result not just of attacks during the conduct of hostilities, but also of controlled demolitions and destruction in areas already under the control of Israeli forces – including east of the 'yellow line' since the entry into force of the ceasefire.¹⁷⁰

An occupying power is prohibited from destroying property – whether public or private, movable or immovable – in territory under its control, except in exceptional circumstances where such destruction is 'rendered absolutely necessary by military operations'.¹⁷¹ This very high standard requires that the destruction in question be 'materially indispensable' (i.e., it 'leaves [the party in question] no other choice') in the context of 'fighting or combat and activities directly related to [military operations]'; mere 'military convenience or advantage' that would be achieved by the destruction does not suffice.¹⁷²

In the conduct of hostilities, IHL protects civilian objects (irrespective of property considerations) – that is, all objects that do not meet the strict definition of a military objective – from

168 Trump's 20-Point Gaza Peace Plan in Full (n 4) pt 5.

169 See eg The Visual Journalism Team, 'Gaza War in Maps and Satellite Images' BBC News (London, 13 October 2025) <<https://www.bbc.co.uk/news/resources/1dt-217c6a28-4a90-4d47-a91c-13113a7dc7db>>.

170 See eg Legal Analysis of the Destruction of Healthcare in North Gaza (n 71); Olivia Le Poidevin and others, 'Anatomy of Destruction. How Israel's Multi-Ton Truck Bombs Ripped Through Gaza City' Reuters (London, 31 December 2025) <<https://www.reuters.com/graphics/ISRAEL-PALESTINIANS/DEMOLITION/jnvwkxdlvw/>>; Samuel Granados and others, 'Israel is Still Demolishing Gaza, Building by Building' The New York Times (New York City, 12 January 2026) <<https://www.nytimes.com/interactive/2026/01/12/world/middleeast/israel-cease-fire-gaza-demolition.html>>.

171 GC IV (n 20) art 53. See *ibid* art 147 (defining 'extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly' as a grave breach of the Convention). See also Hague Regulations (n 22) art 23(g) (which prohibits 'destruction or seizure' of 'the enemy's property', except when 'imperatively demanded by the necessities of war'); CIHL (n 54) r 50 (which prohibits 'destruction or seizure of the property of an adversary', except when 'required by imperative military necessity'); Rome Statute of the ICC (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3 (ICC Statute) art 8(2)(e)(xii).

172 2025 ICRC Commentary to GC IV (n 22) art 53 para 3369. See also *ibid* para 3370.

attack.¹⁷³ The destruction of property also engages a range of rights under IHRL, such as the right to an adequate standard of living, including the right to housing.¹⁷⁴

In departure from this framework, the 20-point plan, endorsed by resolution 2803, provides that '[a]ll military, terror, and offensive infrastructure, including tunnels and weapon production facilities, will be destroyed and not rebuilt'.¹⁷⁵ Such a pre-emptive, abstract pledge to destroy property is incompatible with the above-described rules on the protection of property.¹⁷⁶ Reports that after the conclusion of the ceasefire, Israeli forces have continued to destroy buildings, including 'entire neighbourhoods', in parts of Gaza under their control raise further concerns of continued violations of these rules.¹⁷⁷

Israel must abide by the stringent IHL rules governing the destruction of property in occupied territory and refrain from further unlawful destruction of Palestinian property in the whole territory of Gaza. It must make full reparation for unlawful destructions, for instance in the form of restitution or financial compensation.¹⁷⁸ As explicitly stated in resolution 2803, the ISF must implement its mandate in a manner compatible with IHL, including the prohibition to destroy property in territory under its control unless rendered absolutely necessary by military operations as well as the rules on the conduct of hostilities where applicable.

ii. Access to property, including land

Throughout the hostilities, vast areas of the Gaza Strip were placed off-limits to civilians either as 'militarized zones', or because they were subjected to instructions by the Israeli military for the population to leave.¹⁷⁹ As noted, following the entry into force of the ceasefire, the Israeli military withdrew from parts of the territory, but it retains control over almost 58% of Gaza east of the 'yellow line'.¹⁸⁰ This area reportedly includes large swathes of public and private property, including tracts of agricultural land, which have been rendered inaccessible.¹⁸¹ While the 20-point plan and resolution 2803 envisage further Israeli withdrawal in stages, there is a – vaguely circumscribed – carveout 'for a security perimeter presence that will remain until Gaza is properly secure from any resurgent terror threat', which will continue to limit access to property and obstruct the return of displaced persons to their homes and land.¹⁸² The proposed

¹⁷³ IHL prohibits the targeting of such objects. It also protects such objects by prohibiting attacks against a military objective if it is expected to cause incidental damage to civilian objects that would be excessive in relation to the concrete and direct military advantage anticipated, as well as by obliging the attacking party to take all feasible precautions to minimise incidental damage to civilian objects. See CIHL (n 54) rr 7, 8, 9, 10, 14, 15.

¹⁷⁴ ICESCR (n 90) art 11(1).

¹⁷⁵ Trump's 20-Point Gaza Peace Plan in Full (n 4) pt 13. See also UN Doc S/RES/2803 (2025) (n 7) para 7.

¹⁷⁶ Both the prohibition on the destruction of property under the control of an occupying power (and assorted exception thereto) as well as the rules on the conduct of hostilities impose a case-by-case assessment for each object or property, respectively. See also 2025 ICRC Commentary to GC IV (n 22) art 53 para 3379, which clarifies that in case hostilities break out in the occupied territory, the prohibition of destruction continues to apply to property under the physical or tactical control of the occupying power; conduct of hostilities rules will apply to use of force that constitutes an attack against property that meets the criterion of military objective and that is under the physical or tactical control of the adversary.

¹⁷⁷ See n 92 above. On 14 January 2026, OCHA noted that '[d]etonations of residential buildings and bulldozing activities continue to be reported, including near or east of the "Yellow Line". See Humanitarian Situation Update #353 | Gaza Strip (n 1).

¹⁷⁸ See the section on transitional justice, accountability, and reparations below.

¹⁷⁹ See eg 'Humanitarian Situation Update #319 | Gaza Strip' (OCHA oPt, 4 September 2025) <<https://www.ochaopt.org/content/humanitarian-situation-update-319-gaza-strip>>.

¹⁸⁰ See eg The "Yellow Line" (n 3).

¹⁸¹ See eg Humanitarian Situation Update #338 | Gaza Strip (n 117); Ezzidin and Frankel (n 3).

¹⁸² Trump's 20-Point Gaza Peace Plan in Full (n 4) pt 16; UN Doc S/RES/2803 (2025) (n 7) para 7.

establishment of so-called 'Alternative Safe Communities' on private land would similarly interfere with the owners' proprietary rights.¹⁸³

In occupied territory, only movable public property that may be used for military operations may be confiscated.¹⁸⁴ Generally, private property must be respected and may not be confiscated.¹⁸⁵ Certain types of private property – such as munitions of war – may be seized temporarily and in exchange for compensation; they must be returned to their rightful owners 'when peace is made'.¹⁸⁶ Requisitions in kind and services are only permitted 'for the needs of the army of occupation', provided that payment is made; they are proportionate to the resources of the country; and do not involve the inhabitants taking part in military operations against their own country.¹⁸⁷ Under customary international law, an occupying power may also temporarily seize private immovable property – such as buildings and land – for military purposes, for example establishing a military outpost or quartering troops, but only for a fixed time period and, again, compensation must be paid.¹⁸⁸ The overarching notion of 'respect' for private property includes the principle of non-interference and granting access to said property,¹⁸⁹ subject to lawful restrictions under IHL that are compatible with permissible limitations to the right to freedom of movement under IHRL.¹⁹⁰

While IHL authorises an occupying power to take 'such measures of control and security in regard to protected persons as may be necessary as a result of the war',¹⁹¹ including restrictions of movement,¹⁹² such measures must serve a lawful purpose;¹⁹³ they must be necessary and proportionate;¹⁹⁴ and they may not infringe upon the fundamental rights of protected persons.¹⁹⁵ Under IHRL, the right to freedom of movement may also be lawfully restricted, provided that such limitations are set out in law; necessary to achieve a lawful objective; proportionate; non-discriminatory; and 'the least intrusive instrument ... which might achieve the desired result', amongst other requirements.¹⁹⁶ These principles entail an element of temporality in the sense that restrictions may only be imposed for as long as the lawful purpose persists, they remain strictly necessary, and to the extent that the time period can be considered proportionate.¹⁹⁷ Collective measures that do not meet these criteria, or that are imposed for punitive purposes may amount to prohibited collective punishment.¹⁹⁸

¹⁸³ See n 146 above and the section on displacement.

¹⁸⁴ The occupying power must administer immovable public property in occupied territory according to the rules of usufruct. Hague Regulations (n 22) arts 53(1) and 55; CIHL (n 54) rr 51(a) and (b).

¹⁸⁵ Hague Regulations (n 22) art 46; CIHL (n 54) r 51(c). See also CIHL (n 54) r 50; ICC Statute (n 171) art 8(2)(e)(xii).

¹⁸⁶ Hague Regulations (n 22) art 53(2).

¹⁸⁷ *ibid* art 52.

¹⁸⁸ Yoram Dinstein, *The International Law of Belligerent Occupation* (2nd edn, CUP 2019) paras 697, 698 and the references cited therein; Yutaka Arai-Takahashi, 'Protection of Private Property' in Andrew Clapham, Paola Gaeta, and Marco Sassòli (eds), *The 1949 Geneva Conventions: A Commentary* (OUP 2015) paras 26, 27 and the references cited therein.

¹⁸⁹ This is a general principle of the law of property. See eg James Penner, *The Idea of Property in Law* (OUP 2000) 128–152.

¹⁹⁰ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCP) arts 12(1), (3).

¹⁹¹ GC IV (n 20) art 27(4).

¹⁹² Jean S Pictet, *The Geneva Conventions of 12 August 1949 Commentary – IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (ICRC 1958) (1958 Pictet Commentary to GC IV) art 27(4) 207.

¹⁹³ This includes discharging the occupying power's obligation to maintain public order and civil life, or ensuring its own security. See Hague Regulations (n 22) art 43; 2025 ICRC Commentary to GC IV (n 22) art 27(4) para 2345.

¹⁹⁴ 2025 ICRC Commentary to GC IV (n 22) art 27(4) paras 2348–2350.

¹⁹⁵ 1958 Pictet Commentary to GC IV (n 192) art 27(4) 207.

¹⁹⁶ ICCPR (n 190) art 12(3); UNHRC 'CCPR General Comment No. 27: Article 12 (Freedom of Movement)' (1 November 1999) UN Doc CCPR/C/21/Rev.1/Add.9 (General Comment 27) paras 14, 18. A lawful objective would be protecting national security, public order, public health or morals, or the rights and freedoms of others. While the right to freedom of movement can be derogated from in accordance with ICCPR (n 190) art 4, Israel has not made such a derogation.

¹⁹⁷ See eg 2025 ICRC Commentary to GC IV (n 22) art 27(4) paras 2342, 2348; General Comment 27 (n 196) paras 11, 14.

¹⁹⁸ GC IV (n 20) art 33(1); 2025 ICRC Commentary to GC IV (n 22) art 27(4) para 2347.

Placing large tracts of the occupied territory off-limits for the population – such as land and property east of the 'yellow line' or within a future 'security perimeter' – for an extended period of time is very likely incompatible with IHL and IHRL standards. For one thing, it does not meet the above-mentioned stringent criteria for lawful seizure of (certain types of) property, such as temporality and compensation. Furthermore, analysed as a potential 'security measure', the alleged security imperative invoked by Israel is vague, ill-defined, and articulated in a generalised manner (rather than in terms of a specific and concrete security threat), and may thus not amount to a lawful purpose. Even if the existence of a lawful purpose were presumed, Israel has alternative, far less intrusive means at its disposal,¹⁹⁹ rendering the measure it has opted for contrary to the requirements of necessity and proportionality.

There is also concern that the division of Gaza along the 'yellow line' – and continued control by Israel over territory to its east – will pave the way for annexation, which would amount to a violation of the prohibition of the acquisition of territory by force.²⁰⁰

Israel – and any other actor bound by the law of occupation – must comply with the rules governing the protection of property in the whole territory of Gaza. Palestinians in Gaza must be granted free and safe movement across the Strip, including for purposes of accessing their land and other property, subject to the narrow lawful restrictions envisaged by IHL and IHRL. Israel and other States involved in implementing the 20-point plan and Security Council resolution 2803 must offer necessary guarantees that none of Gaza's territory – including what is currently placed off-limits east of the 'yellow line' – will be annexed.

(i) Unexploded ordnance

It is estimated that there are thousands of tonnes of unexploded ordnance across Gaza posing severe risks to civilians, especially children, which it may take decades to clear away.²⁰¹ Restrictions on the entry of demining equipment into Gaza (such as 'hook-and-line' kits) – including on the basis of their classification as so-called 'dual-use' items – renders demining operations extremely difficult.²⁰²

¹⁹⁹ For example, Israel could limit movement within a tightly confined area strictly necessary to ensure the security of its own forces while broadly preserving the civilian population's access to 'humanitarian assets, public infrastructure and agricultural land' east of the 'yellow line'. 'Humanitarian Situation Update #347 | Gaza Strip' (OCHA oPt, 11 December 2025) <<https://www.ochaopt.org/content/humanitarian-situation-update-347-gaza-strip>>.

²⁰⁰ For the prohibition of the acquisition of territory by force, see Advisory Opinion of 19 July 2024 (n 16) [174]–[179]. Annexation does not affect the applicability of the law of occupation and the protections afforded to protected persons. See GC IV (n 20) art 47. See also Emanuel Fabian, 'Touring the Strip, IDF Chief Zamir Says Gaza Ceasefire Line "a New Border"' *Times of Israel* (Jerusalem, 7 December 2025) <<https://www.timesofisrael.com/touring-the-strip-idf-chief-zamir-says-gaza-ceasefire-line-a-new-border/>>; Defense Minister Again Vows Gaza Settlements, Says Israel "De Facto" Annexing West Bank' *Ha'aretz* (Tel Aviv, 25 December 2025) <<https://www.haaretz.com/israel-news/2025-12-25/ty-article/defense-minister-again-vows-gaza-settlements-says-israel-de-facto-annexing-west-bank/0000019b-552a-d02f-a7ff-d5fb6b0a0000>>.

²⁰¹ See eg Will Worley, 'Unexploded Ordnance: The Growing Gaza Challenge that's not Going Away' *The New Humanitarian* (London, 10 June 2024) <<https://www.thenewhumanitarian.org/news/2024/06/10/unexploded-ordnance-growing-gaza-challenge-thats-not-going-away>>; Annika Burgess, 'Attracted to "Shiny" Objects, Children in Gaza Mistake Unexploded Bombs for Toys' *ABC News* (Ultimo, NSW, 30 October 2025) <<https://www.abc.net.au/news/2025-10-31/unexploded-ordinance-israel-bombs-gaza-clearance-war-remnants/105937500>>.

²⁰² See eg 'The Dangers Beneath Gaza's Rubble' *The Economist* (Amman, 13 November 2025) <<https://www.economist.com/middle-east-and-africa/2025/11/13/the-dangers-beneath-gazas-rubble>>.

The principle of precautions in attack requires the attacking party to provide information as to the location of unexploded ordnance in the aftermath of hostilities, and to issue effective warnings to the civilian population concerning its presence.²⁰³ Parties to an armed conflict also have an obligation, in areas under their control, to locate and clear unexploded ordnance, to similarly issue effective warnings to civilians to notify about its presence, and to inform them as to the risks associated with it.²⁰⁴ Protocol II to the Convention on Certain Conventional Weapons – to which Israel is a party – mandates parties to record information on mines and booby-trapped areas as well as to clear them after hostilities, amongst other commitments.²⁰⁵

The parties to the conflict must comply with their obligations regarding unexploded ordnance in the whole territory of Gaza. They must, notably, allow and facilitate the entry at scale of demining equipment, armoured vehicles, other necessary supplies, and specialised personnel²⁰⁶ as well as cooperate with the United Nations Mine Action Service (UNMAS), the HALO Trust, the Mines Advisory Group (MAG), and other specialised demining organisations,²⁰⁷ including with regards to public information campaigns.²⁰⁸



203 Eirini Giorgou, 'Preventing and Eradicating the Deadly Legacy of Explosive Remnants of War' (ICRC Law & Policy Blog, 23 February 2023) <<https://blogs.icrc.org/law-and-policy/2023/02/23/preventing-eradicating-explosive-remnants-of-war/>>; CIHL (n 54) r 15.

204 Giorgou (n 203); CIHL (n 54) r 22.

205 Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as Amended on 3 May 1996 (Protocol II, as Amended on 3 May 1996) Annexed to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (adopted 3 May 1996, entered into force 3 December 1998) 2048 UNTS 93 arts 9, 10.

206 See eg 'UNMAS oPt Ceasefire Factsheet October 2025' (UNMAS) <<https://www.unmas.org/en/unmas-opt-ceasefire-factsheet-october-2025>>.

207 Lauren Turner, 'UK Pledges £4m to Clear Land Mines to Help Flow of Aid in Gaza' BBC News (London, 30 October 2025) <<https://www.bbc.com/news/articles/c9d6x02xdj6o>>.

208 See eg 'Gaza: HI Runs Risk Awareness Campaigns to Protect the Population' (Handicap International, 23 January 2025) <<https://www.hi.org/en/news/gaza-hi-runs-risk-awareness-campaigns-to-protect-the-population>>.

4. Transitional justice, accountability, and reparations

Due reckoning with the systematic violations of international law that have been committed over the course of the past two years – and in the broader context of Israel's occupation of the oPt more generally²⁰⁹ – is mandated by international law, and crucial to deter future violations and ensure a durable peace.²¹⁰

The parties to the conflict and transitional authorities should commit to a transitional justice process – i.e., an 'attempt to come to terms with [the] legacy of large-scale past conflict, repression, violations and abuses, in order to ensure accountability, serve justice and achieve reconciliation'.²¹¹ Transitional justice often encompasses but is broader than legal accountability (both at the individual and State levels) – it may entail 'truth, justice, reparation, memory and guarantees of non-recurrence', amongst other elements.²¹² Such efforts should be 'context-specific', 'inclusive' (empowering victims as well as featuring a 'transgenerational and child-sensitive lens'), and 'gender-responsive', amongst other standards.²¹³ The following subsections outline the requirements regarding legal accountability.

(a) Obligations of the parties to the conflict

There is incontrovertible evidence that both Israel, Hamas, and other armed groups from Gaza have committed violations of international law over the course of the hostilities,²¹⁴ and that Israel has been violating international law in other parts of the oPt.²¹⁵

First, Israel has an obligation to investigate and, where appropriate, prosecute those suspected of having committed war crimes, including grave breaches of the Geneva Conventions.²¹⁶ Israel

209 For the current situation in the West Bank, see eg 'Humanitarian Situation Update #354 | West Bank' (OCHA oPt, 22 January 2026) <<https://www.ochaopt.org/content/humanitarian-situation-update-354-west-bank>>; 'UN Relief Chief Calls for Protection of Palestinians in West Bank' (OCHA oPt, 4 November 2025) <<https://www.ochaopt.org/content/un-relief-chief-calls-protection-palestinians-west-bank>>.

210 See eg 'Gaza: Peace Demands Justice, Accountability and Dignity[,] Says UN Expert' (OHCHR, 15 October 2025) <<https://www.ohchr.org/en/press-releases/2025/10/gaza-peace-demands-justice-accountability-and-dignity-says-un-expert>>.

211 'OHCHR: Transitional Justice and Human Rights' (OHCHR) <<https://www.ohchr.org/en/transitional-justice>>. See also Anja Seibert-Fohr, 'Transitional Justice in Post-Conflict Situations' MPEPIL (last updated May 2019).

212 'Special Rapporteur on Truth, Justice and Reparation: Purpose of the Mandate' (OHCHR) <<https://www.ohchr.org/en/special-procedures/sr-truth-justice-reparation-and-non-recurrence>>. See also Anja Seibert-Fohr (n 211) 20.

213 'Guidance Note of the Secretary General on Transitional Justice: A Strategic Tool for People, Prevention and Peace' (OHCHR, 11 October 2023) 6, 8, 10. <https://www.ohchr.org/sites/default/files/documents/issues/transitionaljustice/sg-guidance-note/2023_07_guidance_note_transitional_justice_en.pdf>. See *ibid* 6-12.

214 See eg 'Legal Analysis of the Initial Stages of the 2023 Hostilities in Israel and Gaza' (IHL Centre, 5 December 2023) <<https://www.diakonia.se/ihl/news/legal-brief-on-the-2023-hostilities-in-israel-and-gaza/>>; 'Hostilities and Violence in the oPt' (IHL Centre) <<https://www.diakonia.se/ihl/jerusalem/2023-2024-hostilities-escalating-violence-opt/>>.

215 See eg 'Responsibility Under International Law for Settler Violence in the Occupied Palestinian Territory' (IHL Centre, 8 July 2024) <<https://www.diakonia.se/ihl/news/responsibility-international-law-settler-violence/>>; 'Overkill: A Critical Appraisal of the Use of Force by Israel in the West Bank' (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/>>.

216 GC IV (n 20) arts 146(2) and 147; CIHL (n 54) r 158. Grave breaches are a category of war crimes committed in the context of an IAC, against protected persons as defined in the Geneva Conventions. For instance, in the context of the current occupation of Palestinian territory by Israel, Palestinians in Gaza qualify as 'protected persons' pursuant to GC IV (n 20) art 4.

also has obligations pursuant to the Convention against Torture and the Genocide Convention to investigate and prosecute torture, genocide, incitement to genocide, and other acts prohibited pursuant to these conventions.²¹⁷ Although international law does not per se appear to impose an obligation upon armed groups to investigate and prosecute war crimes, this may be a way for them to comply with their obligation to ensure respect for IHL,²¹⁸ and would be in line with the doctrine of command responsibility in NIACs.²¹⁹ Furthermore, to the extent that Hamas remains the de facto authority in Gaza, it arguably does have an obligation to respond to and investigate serious violations of IHL.²²⁰ In any case, courts convened by armed groups operating in Gaza must offer the essential guarantees of independence and impartiality.²²¹ Other, non-judicial avenues may also offer adequate means of accountability, such as disciplinary measures.²²²

IHL encourages the granting of amnesties to fighters who acted in accordance with the laws and customs of war.²²³ By contrast, amnesties for serious violations of IHL or other international crimes would be incompatible with international law.²²⁴ Accordingly, the parties should expressly exclude amnesties for international crimes.²²⁵

As a State, Israel is also responsible for internationally wrongful acts that are attributable to it.²²⁶ Israel must cease all wrongful acts as well as offer assurances and guarantees of non-repetition where appropriate.²²⁷ It must make full reparation for any injury caused by these violations, which may be in the form of restitution, financial compensation for damage that can be assessed monetarily, or satisfaction (an acknowledgement of the breach or a formal apology) if either restitution or compensation are unavailable.²²⁸ In practice, this means, for example, that any buildings that have been damaged or destroyed in violation of applicable legal rules must be reconstructed or compensation paid to the owners.

Further to the provisions of the law of State responsibility on reparation (which is usually made to the injured State or the beneficiary of the obligation breached, i.e., the Palestinian people), other legal frameworks specifically enshrine the right to reparations and remedies for affected

217 Convention against Torture (n 152) art 7(1); 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) arts IV, VI. In the case of the Convention against Torture, the obligation is *aut dedere aut judicare*.

218 The Security Council and other actors often call upon armed groups to ensure respect for IHL. See 2025 ICRC Commentary to GC IV (n 22) art 3 para 781. See also Michelle Mack and Jelena Pejic, 'Increasing Respect for International Humanitarian Law in Non-International Armed Conflicts' (ICRC, February 2008) 10, 15 and the references cited therein <https://www.icrc.org/sites/default/files/topic/file_plus_list/0923-increasing_respect_for_international_humanitarian_law_in_non-international_armed_conflicts.pdf>.

219 2025 ICRC Commentary to GC IV (n 22) art 3 para 782.

220 See eg Legal Analysis of the Initial Stages of the 2023 Hostilities in Israel and Gaza (n 214) 89 and fn 570.

221 2025 ICRC Commentary to GC IV (n 22) art 3 paras 785-786.

222 See eg Anne-Marie La Rosa and Carolin Wuerzner, 'Armed Groups, Sanctions and the Implementation of International Humanitarian Law' (2008) 90 Int'l Rev Red Cross 327.

223 CIHL (n 54) r 159.

224 'Amnesties and International Humanitarian Law: Purpose and Scope' (ICRC, July 2017) <https://www.icrc.org/sites/default/files/document/file_list/170545_amnesties_factsheet_14_july_2017_clean_en.pdf>.

225 The current 20-point plan provides that 'Hamas members who commit to peaceful co-existence and to decommission their weapons will be given amnesty', but does not exclude amnesties for international crimes. See Trump's 20-Point Gaza Peace Plan in Full (n 4) pt 6.

226 ILC 'Articles on Responsibility of States for Internationally Wrongful Acts, with Commentaries' (2001) Yearbook Intl L Com Vol II Pt 2 (ARSIWA) arts 1, 2, 4-11, 28.

227 *ibid* arts 29, 30.

228 *ibid* arts 31, 34-37. For intangible damage such as loss of education or the irrevocable loss of cultural heritage, satisfaction may be the only available remedy. See eg *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)* (Judgment) [2007] ICJ Rep 43 [463].

individuals.²²⁹ In practice, however, it is nearly impossible for Palestinians – especially those from Gaza – to obtain remedies before Israeli courts.²³⁰ Israel must revise its legislation to remove these hurdles in order to abide by its obligations.

(b) Obligations of third States

Some of the obligations (allegedly) breached by Israel are obligations *erga omnes* – i.e., they are owed to the international community as a whole – such as IHL obligations.²³¹ Any State is entitled to invoke Israel's responsibility for such violations, and to demand their cessation as well as performance of the obligation of reparation in the interest of the injured State or the beneficiaries of the obligation.²³² Furthermore, in case of serious breaches of peremptory norms of international law, third States have an obligation, notably, not to render aid or assistance in the maintenance of a situation resulting from such breaches, and to cooperate by lawful means to bring the serious breaches to an end.²³³

Third States also have obligations when it comes to individual criminal accountability. International crimes are so grave that they constitute offences against all humankind. As a result, third States may investigate and prosecute – pursuant to the principle of 'universal jurisdiction' – perpetrators of international crimes who find themselves within their jurisdiction, regardless of where the crimes may have been committed or the nationality of the perpetrators and the victims.²³⁴ They even have an obligation to do so for certain crimes, such as grave breaches of the Geneva Conventions²³⁵ and torture.²³⁶ The prosecution of international crimes by third States is crucial to end the impunity gap in a situation where the forum State or the State of which the alleged perpetrators are nationals have not done so.²³⁷ States party to the Rome Statute of the ICC must fully cooperate with the Court's investigation into the Situation in the State of Palestine, including by extraditing suspects within their jurisdiction.²³⁸

229 See ICCPR (n 190) art 2(3); Human Rights Committee, 'General Comment No 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant' (26 May 2004) UN Doc CCPR/C/21/Rev.1/Add.13 para 8; UNGA Res 60/147 'Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law' (21 March 2006) UN Doc A/RES/60/147.

230 See eg Fatmeh El-'Ajou, 'Obstacles for Palestinians in Seeking Civil Remedies for Damages before Israeli Courts' (Adalah Briefing Paper, May 2013) <<https://www.adalah.org/uploads/oldfiles/Public/files/English/Publications/Articles/2013/Obstacles-Palestinians-Court-Fatmeh-ElAjou-05-13.pdf>>; 'IHL in Focus: Spot Report. Water Crisis in War and Under Occupation: Current Israeli Policy and Practice in the Occupied Palestinian Territory Under International Humanitarian Law' (Geneva Academy, June 2025) 16–17 <<https://geneva-academy.ch/wp-content/uploads/2025/09/IHL-Spot-Report-Water-Crisis-in-War-and-Under-Occupation.pdf>>.

231 UN Doc A/77/10 (n 35) concl 17 and 23; CIHL (n 54) Commentary to r 144; *The Barcelona Traction, Light and Power Company, Limited* (Judgment) [1970] ICJ Rep 3 [33] (obiter); *East Timor (Portugal v Australia)* (Judgment) [1995] ICJ Rep 90 [29]. Other norms are also enshrined in parallel in international treaties and thus give rise to obligations *erga omnes partes*. See eg *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v Myanmar)* (Preliminary Objections) [2022] ICJ Rep 477 [107]–[113].

232 ARSIWA (n 226) art 48.

233 *ibid* arts 40, 41. The duty to cooperate by lawful means may still represent progressive development of the law. See *ibid* Commentary to art 41(1) para 3. See also *Responsibility of Third Parties Emanating from the Findings of the ICJ's Advisory Opinion of 19 July 2024* (n 37).

234 CIHL (n 54) r 157.

235 GC IV (n 20) art 146(2).

236 Convention against Torture (n 152) arts 5–8.

237 On third States' exercise of universal jurisdiction, see eg Golnouche K Barzegar, 'Justice for Gaza: Who is Doing What?' (Justice Info, 4 November 2025) <<https://www.justiceinfo.net/en/151753-justice-for-gaza-who-is-doing-what.html>>; 'Universal Jurisdiction Database' (TRIAL International) <<https://trialinternational.org/resources-3/universal-jurisdiction-database/>>.

238 See 'State of Palestine' (ICC) <<https://www.icc-cpi.int/palestine>>; 'ICC Arrest Warrants Against Israeli and Hamas Officials' (IHL Centre, 22 November 2024) <<https://www.diakonia.se/ihl/news/icc-arrest-warrants-against-israeli-and-hamas-officials/>>.

In the whole territory of Gaza, Israel, Palestinian authorities, and other actors exercising relevant control should grant access to fact-finding missions, investigators, foreign journalists, UN Special Rapporteurs, as well as other oversight mechanisms for purposes of documenting violations as well as collecting and preserving evidence.²³⁹ At a minimum, actors other than the parties to the conflict that operate in Gaza – such as third States and entities set up pursuant to the 20-point plan or resolution 2803 – should take all feasible measures not to destroy evidence indicative of serious violations of international law that may amount to international crimes. Furthermore, UN member States arguably have a positive obligation to cooperate with UN-mandated bodies such as the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, including by means of collecting and handing over relevant evidence.²⁴⁰

The parties to the conflict and transitional authorities should commit to a transitional justice process and respect their obligations regarding State responsibility, individual criminal accountability, as well as individuals' right to remedy and reparation. As a starting point, they should establish a forum for truth-telling and setting a record of events. Israel, the de facto authorities, and other concerned States must investigate and, where appropriate, prosecute serious violations of international law. Amnesties for international crimes must be explicitly excluded. Israel should revise its legislation to ensure that Palestinians can obtain reparations before Israeli civil courts. In the interim, access to alternative fora should be facilitated, such as the civil courts of third States, human rights treaty bodies, and international claims commissions.

Third States should invoke Israel's responsibility for (alleged) violations of erga omnes obligations, and demand their cessation as well as performance of the obligation of reparation. They must comply with their obligations not to recognise or render aid or assistance in the maintenance of situations resulting from serious breaches of peremptory norms, cooperate by lawful means to bring such breaches to an end, and pursue individual criminal accountability, including through universal jurisdiction. States party to the Rome Statute must fully cooperate with the ICC. The international community should set up a register of damage,²⁴¹ and consider establishing a complementary 'next-generation' accountability mechanism with a robust mandate to collect evidence, identify individuals suspected of international crimes, and cooperate with the ICC as well as national judicial authorities, the latter for purposes of facilitating prosecutions on the basis of universal jurisdiction.²⁴²

239 The ICJ imposed specific obligations on Israel as regards the collection and preservation of evidence connected to the subject matter of the proceedings instituted by South Africa concerning alleged violations of the Genocide Convention in Gaza. See *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v Israel)* (Request for the Indication of Provisional Measures: Order) General List No 192 [26 January 2024] [86(5)].

240 See eg 'Frequently Asked Questions' (United Nations Independent International Commission of Inquiry on the Occupied Palestinian Territory, Including East Jerusalem, and Israel) 5 <https://www.ohchr.org/sites/default/files/2022-02/FAQ_COIOPTEJL.pdf>; UNHRC 'Ensuring Respect for International Human Rights Law and International Humanitarian Law in the Occupied Palestinian Territory, Including East Jerusalem, and Israel' (28 May 2021) UN Doc A/HRC/RES/S-30/1 paras 3, 4.

241 Such a register should be set up both for violations committed in the context of the hostilities in Gaza as well as for damage inflicted on natural and legal persons as a result of violations of international law committed throughout the occupation. See UNGA 'Advisory Opinion of the International Court of Justice on the Legal Consequences Arising from Israel's Policies and Practices in the Occupied Palestinian Territory, Including East Jerusalem, and from the Illegality of Israel's Continued Presence in the Occupied Palestinian Territory' (19 September 2024) UN Doc A/RES/ES-10/24 para 10.

242 See eg Federica D'Alessandra, 'UN Accountability Mandates in International Justice' (2023) 21 J Int'l Crim Justice 551. Such investigative mechanisms have previously been set up for Syria (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'), Myanmar (the Independent Investigative Mechanism for Myanmar, 'IIMM'), Iraq (the Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL, 'UNITAD'), and most recently Afghanistan.

5. Conclusion

After more than two years of hostilities, which were characterised by serious and systematic violations of international law, the entry into force of a fragile ceasefire on 10 October 2025 as well as the adoption of the 20-point plan and Security Council resolution 2803 mark a critical juncture not just for the future of Gaza, but of the oPt and Israel more broadly.

First and foremost, Israel, third States contributing to the implementation of the 20-point plan and resolution 2803, any entities or mechanisms set up pursuant to these documents, as well as the international community at large must centre Palestinian voices and meaningful participation in all humanitarian and diplomatic processes regarding the future of Gaza. The Palestinian people's inalienable and unconditional right to self-determination must be the cardinal principle guiding the interpretation and implementation of the 20-point plan and resolution 2803.

Second, the actors implementing the plan and resolution 2803 must address the grave humanitarian issues affecting the Palestinian population in the whole territory of Gaza with the utmost urgency and in full compliance with their international legal obligations, including as regards humanitarian relief and commercial supplies; access to healthcare; shelter and housing; the protection, care, and education of children; displacement; the protection of detainees; the missing and dead; the protection of public and private property; as well as unexploded ordnance.

Finally, the parties to the conflict and transitional authorities must commit to a process of transitional justice and abide by their obligations regarding State responsibility, individual criminal accountability, and Palestinians' right to remedy and reparations. This is not just a matter of legal obligation, but an essential prerequisite for durable peace and sustainable governance as well as for deterring future violations of international law.





Published by

International Humanitarian Law Centre

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Page 10: Palestinians walk through the destruction caused by the Israeli air and ground offensive in Gaza City, Thursday, Oct. 23, 2025 (AP Photo/Abdel Kareem Hana). All rights reserved.

Page 14: Smoke rises following an Israeli military bombardment east of Nuseirat, as seen from central Gaza Strip, Friday, Nov. 21, 2025 (AP Photo/Abdel Kareem Hana). All rights reserved.

Page 27: The half-collapsed home of the Halawa family stands in Jabaliya, Gaza City, Tuesday, Nov. 25, 2025. Amani and Mohammed Halawa and their children returned after the ceasefire to find rubble and a damaged roof that they repaired with debris (AP Photo/Jehad Alshrafi). All rights reserved.

Page 33: Palestinians inspect their houses after Israeli bombardment on Deir al-Balah, Thursday, Aug. 29, 2024 (AP Photo/Abdel Kareem Hana). All rights reserved.

Page 38: A tent camp for displaced Palestinians stands amid the destruction left by Israeli strikes north of Gaza City Tuesday, Nov. 25, 2025 (AP Photo/Jehad Alshrafi). All rights reserved.