



# **The Impact of Loss on Women in the Occupied Palestinian Territory: A Comprehensive Analysis**

**The Palestinian Initiative for the Promotion of  
Global Dialogue and Democracy – MIFTAH**

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# **The Impact of Loss on Women in the Occupied Palestinian Territory: A Comprehensive Analysis**

Analytical Report on Documented Cases of Palestinian Women's Losses Due to Israeli Military Practices in the West Bank and Gaza Strip

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## **Foreword:**

Amidst the continued Israeli violations of Palestinian rights, the Palestinian Initiative for the Promotion of Global Dialogue and Democracy, MIFTAH continues to document and analyze the repeated violations against Palestinians because of the Israeli military occupation, whether through killings, displacement, home demolitions, arrests, and deprivation. MIFTAH focuses on documenting these cases of violations against Palestinian women in Gaza Strip and the West Bank, including Jerusalem, based on the framework of the International Humanitarian Law (IHL) and the International Human Rights Law (IHRL), and in accordance with UNSC Resolution 1325.

MIFTAH conducted this qualitative analytical report, which covers one of the most prominent concepts, “loss”. The concept of “loss” addresses the ongoing impact of occupation violations on Palestinian women, considered, in this context, victims of the Israeli military actions. In its Resolution (60/147), The United Nations General Assembly (UNGA) defined victims as “persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power”. The concept of loss is linked to individuals whose presence and socio-economic roles within their families have been interrupted. The reason is their death and permanent absence, because of being killed by the occupying forces, or they are considered as dead due to the failure to find their bodies under the rubble, or due to their temporary absence because of being detained and imprisoned by the occupation.

Despite the difficulty in measuring the impact of "loss" as a concept, MIFTAH has been keen on monitoring and documenting more than 500 statements through questionnaires in the West Bank and approximately 45 affidavits in Gaza Strip. The monitoring and documentation process reveals both the material and moral harm to the women victims. Loss creates economic gaps and causes severe psychosocial crises for the Palestinian women who suffer from loss.

This analytical report focuses on the importance of the presence of women's organizations and human rights defenders, both nationally and internationally, to support women who have experienced loss. It calls for action and advocacy to pressure the United Nations Security Council (UNSC) to issue a special resolution for the protection of Palestinian women and girls and to compel the occupying state to fulfill its obligations in accordance with international agreements that provide for guarantees and measures and measures in this regard.

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## **Executive summary:**

This report is part of the work of the Palestinian Initiative for the Promotion of Global and Democratic Dialogue, MIFTAH, to document Israeli violations against Palestinian women. It also constitutes part of the process of knowledge production and the formulation of international lobbying and advocacy pathways related to international law. The documentation report examines the concept of loss and its connection to the Palestinian reality, focusing on individuals whose existence and social and economic roles within their families have ended, by death and permanent absence from their families and loved ones as a result of being killed by occupying forces, or buried under rubble, or from temporary absence caused by their detention and deprivation from their liberty by the occupier. Although loss generally arises from one of the aforementioned two situations, two additional cases have emerged and begun to spread following the large-scale military assault on the Gaza Strip on 8 October 2023. These are temporary loss resulting from family dispersion and the forcible disappearance of thousands of Palestinians.

In addition to the victim of loss, who was killed, detained, or imprisoned, there are also the family members of the victim—such as their spouse, children, and parents—who are directly impacted by the harm of permanent or temporary loss. This necessitates considering them, according to the UN concept and standards, as victims of the state of loss. UNGA Resolution (60/147)[1], Paragraph 8, defines victims as "those persons who individually or collectively suffered harm ... and, where appropriate, in accordance with domestic law, the term 'victim' also includes the immediate family or dependents of the direct victim, and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

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[1] 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, 16 December 2005. <https://www.ohchr.org/sites/default/files/2021-08/N0549642.pdf>

To measure the impact of loss, the number of direct victims, and the harm they have suffered, MIFTAH conducted a survey involving 545 women affected by loss from various governorates in the West Bank and diverse urban areas (city, refugee camp, town, and village). It included the governorates of Jenin, Tubas, Tulkarem, Nablus, Jericho and the Jordan Valley, Bethlehem, and Hebron, as these areas experienced the highest rates of violations of the occupying forces. Moreover, 45 affidavits were collected in Gaza.

The 545 questionnaires completed by affected women in the West Bank and around 45 affidavits of women (mothers, wives, sisters) from various areas of the Gaza Strip, reveal that the harm experienced by indirect victims of loss includes psychological trauma, fear, blame, anger and hatred among family members, with some holding each other responsible for the loss. Families were deprived of their breadwinners, leading to loss of opportunities for women to continue their education due to the lack of financial resources. Psychological suffering and grief were prevalent, along with significant changes in the family's lifestyle. Many families faced challenges in accessing basic services, as the lost family member was often the one who supported sick and elderly family members. Families also withdrew from social events and celebrations because of their loss, fearing another potential loss within the family. Women were often forced to take on the responsibilities of managing the household and caring for children. Some victims also suffered from isolation and confinement within the home, and others suffered from work interruptions.

The questionnaires and affidavits on cases of loss in the West Bank and Gaza indicate that most cases of loss are the result of the occupying power's violations and disregard for the rules and norms of war that stipulate protecting civilians, avoiding targeting them, and respecting their dignity. Most cases were the result of:

- Indiscriminate targeting and shelling of civilian homes, as well as targeting civilians during their movements while attempting to find safe locations away from active hostilities.

- Deliberate killings and indiscriminate targeting, failing to distinguish between civilians and non-civilians during military operations of the occupying forces in the West Bank.
- Torture and abuse of detainees.
- Unjustified shootings based on mere suspicion at checkpoints or based on unsubstantiated doubts.
- Arbitrary arrests of Palestinians by occupying forces, detaining them without trial or charges.
- Deliberate starvation and deprivation of Gaza's residents from food and water, forcing them to seek these necessities under life-threatening circumstances.
- Intentional targeting of civilians in the places in which they gather seeking water, food, and other humanitarian aid[2].
- Enforced disappearances of individuals after they are detained or gathered by occupying forces.
- Summary executions and burying victims in mass graves. As of 11 May 2024, 17 mass graves have been uncovered, containing the remains of 520 Palestinians[3].

All the actions and practices that led to cases of loss constituted clear and explicit violations of IHL provisions. They fall within the scope and definition of war crimes and crimes against humanity according to Article 147 of the Fourth Geneva Convention of 1949 on the Protection of Civilians during Times of War, Article 85 of the First Additional Protocol to the Geneva Conventions of 1977 complementing the Four Geneva Conventions and Article 8 of the Rome Statute of the International Criminal Court (ICC). Furthermore, the wide scale killings, including victims of loss who were deliberately targeted and killed, fall within the scope and definition of genocide, as stipulated by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

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[2] As in the Flour Massacre, where occupation forces opened fire on civilians gathered to get flour in the southwest of Gaza City, resulting in 112 deaths and 760 injuries on 29 February 2024: [https://t.ly/rn8\\_z](https://t.ly/rn8_z)

[3] Palestinian Return Center. Mass Graves in the Gaza Strip - World's 1st Genocide Broadcast Live amid International Silence, June 2024, p. 6 and onward.

Loss resulting from the violations and practices of the occupation undoubtedly constitutes a war crime, a crime of genocide, and a crime against humanity. Moreover, the harm caused by this crime has extended to tens of thousands of Palestinians whose economic and social lives have been affected, in addition to their ongoing and lifelong psychological suffering and pain caused by the loss. Hence, these practices, given their negative impact and the occupier's blatant disregard for Palestinian lives and emotions, necessitate action on a set of recommendations, most notably:

- Form a national committee to document cases of loss in the West Bank and Gaza Strip.
- Launch a global campaign through civil society organizations (CSOs) to raise awareness about this issue and draw international public opinion to it.
- Seek the issuance of a UNGA resolution that provides for clear and explicit civil responsibility of the Israeli occupier and obliges Israel to provide reparations and remedies for the material damages it has caused to civilians and civilian property due to its violations of the provisions of IHL in the use of force and its breaches of the protections and rights of the civilian population.
- Include the issue of loss victims in the ICC files to ensure their situation is considered in court decisions regarding compensation.
- Collaborate with non-governmental organizations (NGOs) to form a global coalition to hold the criminals of the occupying state accountable and prosecute them.
- Act at the level of the high contracting parties to the Fourth Geneva Convention and pressure them to shoulder their legal responsibility in ensuring that the Israeli occupation state adheres to the rules of protection established by these conventions regarding civilian population; prosecute those states at their national courts for failing to meet their legal obligations to protect Palestinians against violations and crimes committed against them, specifically by opening their jurisdiction to prosecute and pursue Israeli war criminals for crimes committed in Gaza and the West Bank.



- Advocate and lobby through CSOs and international bodies for the ICC's Pre-Trial Chamber to respond to the request submitted by the ICC Prosecutor on 20 May 2024, to issue arrest warrants against Israeli Prime Minister **Benjamin Netanyahu** and Israeli Defense Minister **Yoav Gallant**.
- The violations and crimes that have been, and continue to be, committed in the Occupied Palestinian Territory would not have possibly reached such severity and scale had the UNSC shouldered its responsibilities, whether those arising from the UN Charter, international agreements, or its own resolutions, particularly Resolution 1325 and others related to women, peace, and security.
- Hence, women's organizations and advocates for women's rights, at the national, international, and regional levels, must act and pressure the UNSC to issue a specific resolution on the protection of women and girls, obliging the occupying state to comply with and implement the guarantees and measures set forth in international agreements pertaining to this matter.

## **Introduction:**

The year 2024 has been the bloodiest, most devastating, and most painful year for Palestinians in the Occupied Palestinian Territory. On 8 October 2023, Palestinians were subjected to a wide scale military offensive on Gaza Strip, involving intense aerial, ground, and naval bombardment. This attack caused significant human losses as well as widespread destruction of property and infrastructure, including sewage, water, electricity, and communication networks, agricultural lands, water pumps, desalination plants, and wastewater treatment facilities.

The scope of this attack expanded when the occupying power launched a ground offensive on Gaza Strip on 27 October 2023. As of the preparation of this report, the offensive has resulted in 40,173 civilian casualties, including 11,012 women, 16,365 children, 1,049 elderly individuals, 885 medical and ambulance personnel, 165 journalists, and 203 UNRWA relief workers. Furthermore, there are approximately 92,857 wounded persons and around 10,000 missing persons, including 4,700 women and children[4]. These statistics indicate that 6% of Gaza's population has been killed, injured, or reported missing because of this attack—a rate that may be the highest for civilian casualties in the history of armed conflicts

The Israeli military attack also forced around two million Palestinians to flee their homes and face forced displacement, leaving them houseless in the open, or seeking refuge in schools, hospital courtyards, churches, and mosques[5]. This accounts for more than 90% of the population of Gaza—an unprecedented rate in any internal or international conflict in human history[6].

Together with this attack, the occupying state launched a wide-scale military operation that led to the arrest of around 15,200 Palestinian men and women, including 10,200 in the West Bank and 5,000 from Gaza[7]. Moreover, 22 detainees died due to torture and medical neglect[8]. It should be noted that this number may increase significantly once the fighting stops and the fates of many cases detained by the occupying forces are revealed, as they are still unknown.

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[4] These statistics are as of 22 August 2024.

[5] UN website: 9 out of 10 people in Gaza have been displaced at least once, and in some cases, 10 times." Published on 3 July 2024. See the following link: <https://t.ly/TMjlO>

[6] For example, the number of displaced persons in Syria, which has been experiencing a civil war since 2011, reached around two million displaced individuals, which represents 9% of Syria's estimated population of 22 million: <https://t.ly/cp02k>

[7] From the Palestinian Central Bureau of Statistics (PCBS) data.

[8] The Palestinian Prisoners Club. "Data on Arrest Campaigns in the West Bank Since the Beginning of the Ongoing Genocide After October 7". 20 August 2024. See the following link: <https://t.ly/WyH1F>

As of the date of preparing this report, the attack has led to the full destruction of around 87,000 houses, partial destruction of around 297,000 houses, and the complete destruction of 25,000 buildings. Moreover, 34 hospitals and 52 health centers have been rendered non-operational[9].

Regarding the impact and consequences of the military attack on the West Bank, it is worth noting that 635 Palestinians, including 143 children, have been killed since 8 October in the West Bank. Moreover, Palestinians in the West Bank have been subjected to 7,681 assaults by the occupation forces and settler militias, including 4,488 attacks against Palestinian civilians[10].

The occupying state also divided the West Bank by setting up 882 military checkpoints, in addition to 132 military gates[11] at the entrances to many villages and cities, which separated and isolated most of the Palestinian population centers from one another due to the disruption of their contiguity with their surroundings.

The victims of the large-scale military attack against Gaza, or the victims of the occupation's practices and violations in the West Bank, are not limited to the direct victims—those who suffered themselves due to killing, injury, arrest, or forced disappearance. The harm from these violations has extended to include all the members of their families.

Hence, when 40,000 are killed, 14,000 detained, and 10,000 are missing, this means that 64,000 Palestinian families have been indirectly affected by the loss of one of their members, and thus, the harm experienced by the direct victim extends to other family members.

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[9] From PCBS data.

[10] IBID.

[11] Colonization and Wall Resistance Commission. "Violations of the Israeli Occupation State and Colonizers in the Occupied Palestinian Territories". The semi-annual report, 2024, p. 69 and beyond.

To explain the extent of this indirect harm caused by loss further, we point out that the average Palestinian household includes five members according to the data from the Palestinian Central Bureau of Statistics (PCBS)[1]. This means that 320,000 Palestinians have been directly affected by the cases of loss resulting from the crimes and violations of the Israeli occupying state during the period covered by this report, i.e., the first half of 2024. This represents around 7% of the total Palestinian population in the Occupied Palestinian Territory. If we add to this number the injured and wounded from the wide-scale Israeli attack on Gaza, this means that the total number of direct and indirect victims reaches around 20% of the total Palestinian population in Gaza and the West Bank.

In this context, the Palestinian Initiative for the Promotion of Global Dialogue and Democracy, MIFTAH, focused on highlighting this group—the indirect victims. The aim is to draw the attention of international organizations, activists, and human rights and women's rights defenders to the extent of the real harm caused by the violations and practices of the occupation in the Occupied Palestinian Territory, and encourage those institutions to open this file and focus on working to achieve justice for this group and ensure their right to access justice for the harm, pain, and suffering they have endured.

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[12] PCBS, PCBS Presents the Conditions of the Palestinian Population on the World Population Day, 11/07/2023. See the following link: <https://www.pcbs.gov.ps/post.aspx?lang=en&ItemID=4544>

## **Victims of Loss:**

In addition to the victim of loss, who was killed, detained, or arrested, there are the family members of the victim: the wife, children, parents, etc. These individuals are directly affected by the permanent or temporary loss, which requires considering them, according to the concept and standards of the United Nations, as victims of the loss caused by the violations of the Israeli occupation forces of the rules of IHL and IHRL.

The UNGA Resolution (60/147)[13], Paragraph 8, defines victims as persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of IHRL, or serious violations of IHL. Where appropriate, and in accordance with the domestic law, the term “victim” also includes the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

Article 9 of the principles affirms that a person shall be considered a victim regardless of whether the perpetrator of the violation is identified, apprehended, prosecuted, or convicted. Accordingly, all family members of the victim of disappearance are considered victims of this crime or conduct.

In the Palestinian context, the concept of loss has been associated with those persons whose existence and social and economic roles within their families have come to an end, whether killed by the occupying forces, resulting in their permanent absence from their families and loved ones, or those considered as dead due to being buried under rubble, or those who are temporarily missing as a result of being deprived of their freedom through detention or arrest by the occupier.

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[13] The United Nations 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, 16 December 2005.

Although loss, in general, has practically resulted from one of the two previous cases, two additional cases have emerged and started to spread because of the large-scale military attack on Gaza Strip on 8 October 2023, namely:

1. Temporary loss resulting from the dispersion of families, where the occupier's forced displacement of thousands of families from one area to another led to the dispersion of families and the loss of thousands of persons of each other. This includes the loss of a parent unable to reunite with the rest of the family who moved to a safer location, or the loss of children due to military operations and the bombing of their residential areas, leading to their sometimes fleeing the area with other residents without being accompanied by their parents.
2. The forced disappearance of thousands of Palestinians, where the Office of the United Nations High Commissioner for Human Rights (OHCHR) reported that Israeli occupation forces in Gaza collectively detained thousands of Palestinians without disclosing information about their place of detention or their fate<sup>[14]</sup>, making them among the forcibly disappeared persons, and thus, their fate remains unknown.

In a press release on 24 July 2024, Save the Children indicated that the number of children separated from their families and missing reached about 17,000 children<sup>[15]</sup>. The United Nations Children's Fund (UNICEF) estimated that around 17,000 children had become orphaned due to the situation in Gaza<sup>[16]</sup>.

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[14] Al-Dameer Foundation for Human Rights. 'Al-Dameer issues a field report on cases of detention and forced disappearance of Gaza residents since October 7'. Published on April 27, 2024. See the following link: <https://aldameer.org/?p=995>

[15] Palestinian News and Information Agency, Wafa. "Save the Children: 21,000 missing children in Gaza". Published on June 24, 2024.

See the following link: <https://n9.cl/fb1je>

[16] PCBS. "Dr. Awad "highlights the Palestinian children's situation on the eve of the Palestinian Child Day". Published on 5 April 2024. See the following link: <https://www.pcbs.gov.ps/post.aspx?lang=en&ItemID=4732>

Undoubtedly, it is not possible to evaluate and analyze the impact of loss, specifically in Gaza Strip, with professionalism and objectivity while the Israeli assault, random bombing, and systematic destruction and removal of residential areas continue. The policy of forced displacement and systematic transfer of the population of Gaza to areas determined by the occupation forces is ongoing. Practically, it is not possible to monitor and evaluate the impact of loss in an area where fighting, bombing, killing, and destruction are still taking place. This situation impedes the movement of the field teams, and the instability of those affected by the loss has hindered communication and follow-up with them. Therefore, the goal of this report is to draw the attention of the international community, organizations, and other stakeholders to the reality of the situation and the unfolding disaster in Gaza because of the loss, relying on the perceptions and field reports of MIFTAH's team regarding the negative impact of ongoing Israeli practices and violations in Gaza.

To measure the impact of loss, the size of its direct victims, and the harm inflicted on them, MIFTAH developed a special questionnaire on loss, and filled it out with a sample of 545 women affected by loss from various governorates of the West Bank, including different urban areas (city, refugee camp, town, and village). The sample included the governorates of Jenin, Tubas, Tulkarem, Nablus, Jericho and the Jordan Valley, Bethlehem, and Hebron, the governorates that witnessed the highest rates of Israeli violations.

In Gaza Strip, 45 affidavits were collected from women victims of loss. Although this number is small, it was challenging for activists and field researchers operating under life-threatening conditions, lack of mobility, and the inability to move freely in the region. Field researchers also face the same difficulties that the general population experiences, including insecurity, harsh living conditions, and difficulty, if not impossibility, of movement in many areas. Furthermore, these statements provide a qualitative description of the nature of the violations and the consequences resulting from the loss.

## The impact of loss on women:

**a-** Five hundred and forty five women, representing 545 families affected by loss in the West Bank, filled this questionnaire. The sample was distributed as follows:

Mother	Wife	Sister	Daughter	Grandmother	Fiancé	Sister in-law	Other relation
288	106	103	40	2	1	1	4

**b-** The total number of family members for the women who filled out the questionnaire was around 3,123 individuals, including 1,242 women. This means that the impact of loss on the 545 cases practically extended its harm to include 3,123 individuals.

**c-** The number of women who have a job, hence a source of income out of the total 545 women participants was 54 women, representing 7.8% of the total number of women. The distribution is as follows: 19 mothers, 18 wives, 16 sisters, and 1 daughter. This means that 483 women, or 92.2% of the women participants, depend for their livelihood on others, including the deceased, hence have no source of income.

**d-** Of those who were missing according to the questionnaire—whether by arrest or death— 330 persons are the sole providers for their families, which constitute 60% of the families, while 215 of the missing persons had no dependents for their livelihood.

**e-** Seven participants have disabilities, including two wives, three mothers, one daughter, and one sister.

**f-** The questionnaire covered 545 cases of loss of males (father, son, brother) and 6 cases of loss of females (daughter, sister).



Regarding the affidavits, i.e. statements under oath, they were 45 affidavits filled out by 45 women (mothers, wives, sisters) in various areas of Gaza that field researchers were able to access under the circumstances. Despite the small number of documented statements, they form a clear picture of the extent of the pain and suffering that women endure due to loss. This is evident from the analysis of their content, characterized by the following:

**A-** The number of loss cases included in the statements, which were 91 cases, distributed as follows:

- Loss of a husband: 12 cases.
- Loss of a son: 22 cases.
- Loss of a daughter: 5 cases.
- Loss of brothers: 14 cases.
- Loss of sisters: 3 cases.
- Loss of a father: 2 cases, and a mother: 2 cases.
- Loss of grandchildren: 6 cases.
- A woman lost 25 members of her family all at once, including most of her brothers, sisters, parents, and nephews and nieces in the bombing of their residential building in Khan Younis, Gaza Strip[17].

**B-** Most witnesses in Gaza directly witnessed with their own eyes the loss of loved ones through death. The victims fell and were lost by execution, bombing, or arrest in front of them. This makes it difficult to overcome the pain and memory of these moments, which included heartbreaking and harrowing scenes, such as the scattering of victims' body parts or the inability to retrieve and bury the bodies of those trapped under the rubble.

**C-** The feeling of humiliation, violation of dignity, and pain, especially in cases where individuals were arrested in front of their family members, subjected to humiliation, abuse, insult, and violence in their presence, in addition to the lasting impact of those practices, which cause deep anxiety among family members as they realize the extent of violence the detainee might face afterward.

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[17] An affidavit documented with MIFTAH, number 24/013, on 10/4/2024.

**D-** The impact and effect of loss are significantly aggravated among women in Gaza Strip, as they constantly feel the absence of the victim's role in providing support and assistance during hardships and difficult living conditions. The victims had borne the burden of securing life's necessities, such as food, water, and a safe shelter—a role that women have had to assume after losing the men. As one woman said, "Life has become much harder without him, and we are trying to adapt to his absence..."

**E-** The feeling of weakness and loneliness among bereaved women; in times of war and danger, the role of support, protection, and reassurance becomes even more vital. **"...After their father's death, I feel lonely every moment. I miss his presence all the time, especially under these difficult circumstances. I cannot imagine life continuing well for me and my children after losing him because we were so used to having him with us[18]."**

**F-** The experience of loss coincided with heightened anxiety and tension experienced by most women because of the ongoing hostilities, which exacerbated their already difficult psychological condition, and also intensified their anxiety and fear of facing further cases of loss.

### **The Impact of Loss on Victims:**

The explanations of the impact of loss, as indicated in the questionnaires, specifically the nature of the harm (economic, psychological, emotional, and social)—revealed that the harm that the indirect victims of loss suffered from included:

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[18] An affidavit documented with MIFTAH under number 24/025, dated 11/3/ 2024.

- Psychological trauma and fear, especially in cases where individuals were lost right before the victim's eyes. The testimony of Hiba Raa'fat Sobhi Abu Hasira, a resident of Gaza City in Gaza Strip, reveals the immense pain, suffering, and trauma she experienced after Israeli occupation forces executed her mother, sisters, and brother in front of her eyes on 18 March 2024: **"...A soldier stormed the room where we were taking shelter. We were all sitting together in one corner under a winter blanket. The soldier pointed his weapon at us and continued firing. My mother and siblings were martyred, and I was left alive. I screamed and told him we were civilians. He stopped shooting, approached me, pointed the weapon at my head, and then lowered it. After that, he dragged me out of the room... then another soldier came, pulled me out of the house, and told me to leave..."**[19]
- Blame, anger, hatred, and family members holding each other responsible for the loss: The testimony of Subhiya Mohammed Al-Raqeb demonstrates the extent of the emotional disorder stress, and psychological and social impact on the relationships among family members caused by the pain of loss. Subhiya blamed her husband for the killing and loss of their son by Israeli occupation forces in a drone strike in Khan Younis on 15 January 2024. She believed that her husband's failure to collect firewood himself forced their son to take on the task, which led to killing him: "...I started to hate my husband because he should have gone to collect the firewood instead of us"[20].
- Deprivation from the family's economic provider, which significantly affected the living conditions of many families, worsening their situation and deepening their poverty, especially in cases where the deceased was the sole breadwinner.
- Psychological suffering and grief because of loss: All participants in the survey and statements reported experiencing psychological suffering, grief, and depression because of loss.

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[19] An affidavit documented with MIFTAH under number 24/030, dated 3/2/ 2024.

[20] An affidavit documented with MIFTAH under number 24/042, dated 3/2/ 2024.

- Loss of opportunities for women to complete their education because of the absence of the breadwinner and the family's inability to pay for university tuition.
- Change in the family's lifestyle, as family gatherings have become filled with sadness and constant reminders of the lost or detained loved one, creating a weird environment in their behavior and interactions with one another.
- Constant anxiety and stress among family members, especially among the families who have temporarily lost a son or father due to detention, because of their inability to visit detainees, along with reports of mistreatment, torture, and even deaths in detention centers, which intensified their anxiety and fear.
- The impact of loss on families' access to basic services, with the loss of the person whom sick and elderly family members depended on for assistance and access to places that provide service, or for securing medical needs.
- The family's withdrawal from social events and celebrations, because of loss, resulting in seclusion and disconnection from their community.
- Worsening of medical conditions because of psychological distress, in cases that suffer from chronic illnesses, as loss aggravated the health conditions of loss victims.
- A state of constant fear and anxiety among some mothers, with ongoing fear and deep concern about the possibility of losing another family member.
- The wife's need to bear the family responsibilities, and the responsibilities of managing family, roles previously carried by the husband, which has significantly increased her burdens and responsibilities.
- Living in a state of constant stress and anxiety, constantly anticipating distressing and negative news about their missing loved ones.
- Isolation and withdrawal at home; some persons stopped working, or even lost their jobs due to their inability to continue because of the psychological distress and trauma.
- Losing the desire to live, so that for some, especially parents, life has lost its value and meaning after the loss of a child. Some stopped following up their medical conditions, or discontinued their medications.

- Family Dispersion, as wives are often forced to move from their husband's home to their family's home, in accordance with social customs prevalent in many areas following the husband's death. This is especially common in cases where the wife had no children, further deepening the psychological crisis for both the bereaved family and the bereaved wife.
- Social suffering, as in many cases of loss, families—particularly women—are forced into isolation and withdrawal from social life. For example, a woman who has lost her husband is often bound by social norms requiring her not to go out or move freely on her own, to stop receiving visitors at her home, to limit social interactions, and to dress, speak and interact differently from others.

## **Israeli violations that caused the loss**

### ***The rights of civilian population and their protection guarantees in International Humanitarian Law***

The Palestinian territory is considered occupied under the provisions and rules of international law. Since 5 June 1967, this land has been subjected to the presence of hostile foreign forces that established themselves unlawfully and in violation of international legal principles. This has been reaffirmed through numerous United Nations resolutions and other international actions, including rulings by the International Court of Justice (ICJ), which unequivocally declared the Israeli occupation of Palestinian land illegal and emphasized the need for Israel to end this occupation: "...The Court considers that such presence constitutes a wrongful act entailing its international responsibility. It is a wrongful act of a continuing character which has been brought about by Israel's violations, through its policies and practices, of the prohibition on the acquisition of territory by force and the right to self-determination of the Palestinian people..."[21].

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[21] International Court of Justice, Advisory Opinion, Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, 19 JULY 2024, Para 267 ,P72.

The applicability of describing the Palestinian lands as occupied territory, including all areas that fell under the control of the Israeli forces in 1967, including East Jerusalem, means that the Palestinian territory and its population are subject to the provisions and principles of the International Humanitarian Law (IHL). This specifically includes The Hague Regulations concerning the Laws and Customs of War on Land of 1907, the Fourth Geneva Convention on the Protection of Civilian Persons in Time of War of 1949, and the First Additional Protocol to the Geneva Conventions of 1977. These legal instruments constitute the binding legal basis that the occupying power must respect, enforce, and apply in organizing the rights and obligations of the population of the occupied territory, as well as the rights and obligations of the occupier towards the civilian population, their property, and the resources and wealth in the occupied territory, especially that the occupying state, Israel, is a contracting party to these conventions, having acceded to the Four Geneva Conventions on 6 July 1951.

The most important guarantees and rights that these conventions affirm include:

**A-** Respect for the principle of distinction between those participating in hostilities and civilians, as well as civilian property, so that civilians and their property remain protected and not targeted. Moreover, if there is doubt or uncertainty regarding the nature of targets or individuals intended to be targeted, occupation forces must interpret this doubt in favor of considering the target or person as civilian[22].

**B-** The civilian status of civilians is not invalidated by the presence of individuals who do not qualify as civilians; therefore, if an armed person or some armed persons are present in a civilian area, this does not justify considering the area a military target.

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[22] Article 50 of the First Geneva Convention provides that, "A civilian is any person who does not belong to one of the categories of persons referred to in Article 4 A (1), (2), (3) and (6) of the Third Convention and in Article 43 of this Protocol. In case of doubt whether a person is a civilian, that person shall be considered to be a civilian. 2. The civilian population comprises all persons who are civilians. 3. The presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character.

**C-** The occupying state is responsible for meeting these individuals' food and medical needs and ensuring their protection from risks arising from combat[23].

**D-** Civilians must not be subjected to reprisals, retribution, or collective punishment by occupation forces (Article 33 of the Fourth Geneva Convention). Furthermore, IHL prohibits targeting or exposing civilians to indiscriminate attacks, which are defined in Article 51 of the First Geneva Protocol of 1977 as attacks that do not distinguish between civilians and those participating in hostilities[24].

**E-** It is prohibited to starve the civilian population and destroy their essential means of livelihood and life, such as food supplies, agricultural areas that produce them, crops, livestock, drinking water facilities and networks, and irrigation works, if the intent is to deprive civilians of them or diminish their vital value, regardless of the motive—whether to starve civilians, force them to flee, or for any other reason[25].

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[23] Article 55 of the Fourth Geneva Convention provides that “the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate.

[24] Article 51 provides that:

**E-** It is prohibited to starve the civilian population and destroy their essential means of livelihood and life, such as food supplies, agricultural areas that produce them, crops, livestock, drinking water facilities and networks, and irrigation works, if the intent is to deprive civilians of them or diminish their vital value, regardless of the motive—whether to starve civilians, force them to flee, or for any other reason[25].

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1. The civilian population and individual civilians shall enjoy general protection against dangers arising from military operations. To give effect to this protection, the following rules, which are additional to other applicable rules of international law, shall be observed in all circumstances.
  2. The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.
  3. Civilians shall enjoy the protection afforded by this Section, unless and for such time as they take a direct part in hostilities.
  4. Indiscriminate attacks are prohibited. Indiscriminate attacks are:
    - (a) those which are not directed at a specific military objective;
    - (b) those which employ a method or means of combat which cannot be directed at a specific military objective; or
    - (c) those which employ a method or means of combat the effects of which cannot be limited as required by this Protocol;And consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.
  5. Among others, the following types of attacks are to be considered as indiscriminate:
    - (a) an attack by bombardment by any methods or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects; and
    - (b) an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.

[25] Article 54 of Geneva Protocol guaranteed this right as follows: “It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive, whether in order to starve out civilians, to cause them to move away, or for any other motive.



**F-** Civilian hospitals designated for caring for the sick, wounded, and women must not be attacked, nor should their protection cease unless they are used in violation of their humanitarian duties and participate in acts harmful to the enemy. In such cases, it is inadmissible to stop protection except after issuing a warning[26].

**G-** Personnel assigned exclusively and regularly to operate and manage civilian hospitals, including those tasked with searching for, collecting, transporting, and treating wounded and sick civilians, the disabled, and postpartum women, must be respected and protected.

**H-** The transportation of wounded and sick civilians, the disabled, and postpartum women conducted by land via vehicle convoys must be respected and protected.

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[26] The Fourth Geneva Convention of 1949 on the protection of civilian population in times of war asserted that. Article 18 provided that, “The Fourth Geneva Convention of 1949 relative to the Protection of Civilian Persons in Time of War asserted that. Article 18 provided that: “Civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict. States which are Parties to a conflict shall provide all civilian hospitals with certificates showing that they are civilian hospitals and that the buildings which they occupy are not used for any purpose which would deprive these hospitals of protection in accordance with Article 19 . Civilian hospitals shall be marked by means of the emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, but only if so authorized by the State. The Parties to the conflict shall, in so far as military considerations permit, take the necessary steps to make the distinctive emblems indicating civilian hospitals clearly visible to the enemy land, air and naval forces in order to obviate the possibility of any hostile action. In view of the dangers to which hospitals may be exposed by being close to military objectives, it is recommended that such hospitals be situated as far as possible from such objectives.

#### Article 19

The protection to which civilian hospitals are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy. Protection may, however, cease only after due warning has been given, naming, in all appropriate cases, a reasonable time limit, and after such warning has remained unheeded. The fact that sick or wounded members of the armed forces are nursed in these hospitals, or the presence of small arms and ammunition taken from such combatants and not yet handed to the proper service, shall not be considered to be acts harmful to the enemy.

**I-** The occupying power must ensure the free passage of all medical supplies, essential medical equipment, and worship items intended exclusively for civilians. They must also permit the free passage of food supplies, clothing, and dietary supplements intended for children under the age of fifteen, and pregnant and postpartum women[27].

**J-** The collective or individual forcible transfer or deportation of protected persons from occupied territories to the territory of the occupying state or to the territory of any other state, occupied or not, is prohibited, regardless of their motive[28].

**K-** The sanctity of cemeteries and the remains of the persons who died because of the occupation, during detention caused by the occupation, or due to hostilities must not be violated. The remains of those who died because of hostilities must also be respected.

**L-** Educational property, universities, schools, museums, historical and archaeological property must be respected and not targeted. Furthermore, international law has granted these properties special protection, considering them as civilian property[29].

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[27] Article 59 of the Fourth Geneva Convention provides that: “If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal.

Such schemes, which may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross, shall consist, in particular, of the provision of consignments of foodstuffs, medical supplies and clothing.

[28] Article 49 of the Fourth Geneva Convention provides that, “Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive...”.

[29] Article 56 of the Hague Convention of 1907 provided that: “The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property. All seizure of, destruction or wilful damage done to institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings.

**M-** The guarantees of fair trials, humane treatment, and dignity must be respected for the inhabitants of occupied territories who are being detained or tried[30].

**N-** Protected persons accused of offenses must be detained in the occupied country and serve their sentences there if convicted. They must be separated from other detainees whenever possible and provided with a nutritional and health system that preserves their health and at least matches the system applied in the prisons of the occupied country (Article 76 of the Fourth Geneva Convention).

**O-** Every detained person must be allowed, immediately upon detention or within one week at most after arrival at a detention center, and in the event of illness or transfer to another detention center or hospital, to send a message directly to their family (Article 106 of the Fourth Geneva Convention).

### **The rules of international humanitarian law violated by the occupier that led to loss.**

It is evident from the questionnaires and statements on the cases of loss in the West Bank and Gaza that most cases of loss are a result of the occupying state's violation and disregard for the rules and customs of war concerning the protection of civilians, avoiding targeting them, and respecting their dignity. Most of those cases arose from:

**1-** The indiscriminate targeting and shelling of civilian homes, as well as targeting civilians during their movement and their attempts to seek safe places away from the hostile operations.

**2-** Deliberate killing, targeting, and failure to distinguish between civilians and non-civilians during military operations carried out by the occupation forces in the West Bank.

**3-** Torture and ill-treatment of detainees.

**4-** Unjustified shooting based on mere doubt at checkpoints or on mere suspicion.

**5-** The arbitrary arrest of Palestinians by the occupying forces and their detention without trial or charges.

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[30] Articles 31, 37, 71, 72 and 73 of the Fourth Geneva Convention guarantee those rights.

**6-** The deliberate starvation and deprivation of Gaza Strip residents of food and water, which forced them to seek these necessities at times and under life-threatening conditions.

**7-** Deliberate targeting of civilians in gathering places where they seek water, food, and other humanitarian aid[31].

**8-** The forced disappearance of persons after their detention or gathering by the occupying forces.

**9-** Field executions and burying the victims in mass graves, where the number of mass graves discovered as of 11 May 2024 reached seventeen. Among these, seven graves were located in the courtyards of hospitals controlled by the occupying army. Three graves were uncovered in the Al-Shifa Medical Complex in Gaza City, three in the Nasser Medical Complex in Khan Younis, and one grave in Kamal Adwan Hospital in Beit Lahia, with 520 Palestinians buried in them[32].

**10-** All actions and practices that led to cases of loss are considered a clear and explicit violation of the provisions of IHL, as they constitute:

- A clear violation of Article 22 of the 1907 Hague Convention, which prohibited declaring ending life of the civilian population, and Article 51 of the First Geneva Protocol, which prohibited targeting and killing civilians. This is evident from the number of civilian casualties, cases of extrajudicial executions and indiscriminate shelling.
- A violation of the provisions of Articles 76 and 77 of the First Geneva Protocol, which emphasized granting women and children special protection in addition to the general protection afforded to them as civilians.
- -A flagrant violation of the text and content of paragraph (g) of Article 23 of the Hague Regulations concerning the Laws and Customs of War of 1907, due to the unjustified bombing, destruction, and sabotage of public and private property.

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[31] As in the case of the flour massacre, where the occupation forces opened fire at civilians who gathered to get flour in south Gaza City, killing 112 and wounding 760 persons on 29 February 2024. See: [https://t.ly/rn8\\_z](https://t.ly/rn8_z)

[32] Al-Awda Center: "Mass Graves in the Gaza Strip: Televised Genocide Without International Action". June 2024, p. 6 and beyond.

- A flagrant violation of Article 25 of the Hague Regulations of 1907, which prohibits attacking or bombarding, by whatever means, undefended cities, villages, dwellings, or buildings
- A clear violation of Article 18 of the 1949 Fourth Geneva Convention, which prohibits attacks on civilian hospitals.
- A violation of the provisions of Article 33 of the same Convention, which prohibits reprisals against protected persons and their property.
- A clear violation of the provisions and content of Articles 27 and 33 of the Fourth Geneva Convention, due to the crimes of collective punishment and acts of reprisal being committed in the occupied Palestinian territories.
- A clear violation of the provisions and content of Article 53 of the Fourth Geneva Convention, due to the unjustified demolition and destruction of Palestinian public and private properties, which the Israeli occupation forces have systematically destroyed and damaged on a wide scale since the beginning of the aggression.
- A blatant violation of the provisions and content of Article 49 of the Fourth Geneva Convention due to forcing displacement of the population and their forced transfer from their places of residence to other areas.
- A blatant violation of the provisions of Articles 50, 51, and 52 of the First Additional Protocol to the Four Geneva Conventions of 1977, which stipulate the immunity of civilians, and that their civilian status is not affected by the presence of individuals among them who do not fall under the definition of civilians. The articles also emphasize the prohibition of targeting civilians and launching indiscriminate attacks, i.e. those not directed at a specific military objective, or that employ a method or means of combat whose effects cannot be limited, or that are likely to strike military targets, civilians, or civilian objects without distinction, or conduct operations expected to cause civilian casualties or destruction of civilian property.
- A clear violation of the text and content of Article 54 of the Protocol, which completely prohibits the starvation of civilians and subjecting them to harsh living conditions.

- A clear violation of the text and content of Article 55 of the Protocol, which prohibits the use of methods or means of warfare intended or expected to cause such damage to the natural environment, and thereby to prejudice the health or survival of the population.
- A clear violation of the text and content of Article 71 of the Protocol, which obligates the warring parties to respect and facilitate the mission of relief efforts, the transport and distribution of relief consignments, and to respect and avoid targeting workers performing their duties in this regard.

# The Legal characterization of Israeli Violations of International Humanitarian Law

The violations committed by the occupying power in Gaza and the West Bank fall under the scope and definition of:

**War Crimes:** Cases of loss, particularly those resulting from bombing and the deliberate targeting of civilians, arbitrary detention, extrajudicial executions, or deaths caused by torture, fall under the scope and definition of war crimes and crimes against humanity, in accordance with Article 147 of the 1949 Fourth Geneva Convention Relative to the Protection of Civilians in Time of War[33], Article 85 of the 1977 First Additional Protocol to the Geneva Conventions of 1949[34], and Article 8 of the Rome Statute of the ICC.

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[33] Article 147 provides that, "Grave breaches to which the preceding article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or wilfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

[34] Article 85 provides that, "(a) making the civilian population or individual civilians the object of attack; (b) launching an indiscriminate attack affecting the civilian population or civilian objects in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects, as defined in Article 57, paragraph 2 (a) (iii);

4. In addition to the grave breaches defined in the preceding paragraphs and in the Conventions, the following shall be regarded as grave breaches of this Protocol, when committed wilfully and in violation of the Conventions or the Protocol:

(c) practices of ' apartheid ' and other inhuman and degrading practices involving outrages upon personal dignity, based on racial discrimination.

(d) making the clearly-recognized historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples and to which special protection has been given by special arrangement, for example, within the framework of a competent international organization, the object of attack, causing as a result extensive destruction thereof, where there is no evidence of the violation by the adverse Party of Article 53, sub-paragraph (b) , and when such historic monuments, works of art and places of worship are not located in the immediate proximity of military objectives;

(e) depriving a person protected by the Conventions or referred to in paragraph 2 of this Article of the rights of fair and regular trial.

5. Without prejudice to the application of the Conventions and of this Protocol, grave breaches of these instruments shall be regarded as war crimes.

**Genocide:** The widespread killings, including the victims of loss who were killed because of the deliberate targeting and killing of Palestinians, fall under the scope and definition of genocide as stipulated in the Convention on the Prevention and Punishment of the Crime of Genocide of 1948. This Convention defines genocide under Article II as: "In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such:

- (a)** Killing members of the group;
- (b)** Causing serious bodily or mental harm to members of the group;
- (c)** Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d)** Imposing measures intended to prevent births within the group;
- (e)** Forcibly transferring children of the group to another group."

Accordingly, the large number of victims, particularly women and children, in addition to the widespread destruction of Palestinian property and the policy of indiscriminate bombing that does not distinguish between civilians and combatants, constitutes an act of genocide against Palestinians in the Gaza Strip.

What further confirms the intent of the occupying state to cause such a large number of victims and destruction, as well as the awareness and realization of the leaders of the occupation state of the reality of the genocide committed and continuing to be committed by its forces, are the numerous statements issued by military and political authorities, as well as religious figures, inciting the killing and targeting of Palestinians, including:

- On 19 August 2023, the leader of the extremist Shas Party, Eli Yishai, called for an all-out war on the Gaza Strip, stating, "Gaza can be destroyed so they understand that we must not be provoked. They should be leveled to the ground, with thousands of homes, tunnels, and industries demolished".



- Likud MP **Revital "Tali" Gotliv** called on the army to use everything at its disposal, stating in a tweet on 9 October 2023: "It's time for the doomsday missile—launch powerful, unlimited missiles that crush all of Gaza and level it to the ground without mercy, without mercy."
- On 12 October 2023, Minister of Health Moshe Arbel issued a decision preventing the treatment of wounded Palestinians in Israeli government hospitals.
- Statements by Israeli Minister of Heritage Amihai Eliyahu, in which he called for dropping a nuclear bomb on the Gaza Strip[35].
- The statement by Israeli Minister of Finance Bezalel Smotrich on 5 August 2024, in which he said that the death of two million Palestinians in Gaza by starvation is just and moral for the sake of retrieving the Israeli hostages.
- Dozens of doctors in Israel, who referred to themselves as "Doctors for Soldiers," signed a petition in which they called on the Israeli security services and army to bomb hospitals in Gaza[36].

Following up the Israeli statements on the treatment of the population in Gaza, the nature of the force used, and the widespread bombing and targeting of civilian property, as well as hospitals, water sources, medical and relief transport, and areas of displaced people, in addition to deliberately preventing the entry of medical and food supplies, hindering the transfer of the wounded for treatment, and the destruction of infrastructure and sewage and water networks, clearly reveals the intent to commit genocide against the Palestinians and starting its implementation. This is evident either through the direct targeting of the Palestinian population or by intentionally starving the population and creating a living reality devoid of the essentials for life, which may lead to their demise or force them to flee and leave.

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[35] BBC Arabic website. "What are the main reactions to the Israeli Minister's statement about dropping a nuclear bomb on Gaza?". Published on 5 November 2023. See the following link: <http://surl.li/kucspu>

[36] Al -Jazeera.net. "Israeli Doctors Demand Bombing of Hospitals in Gaza". Published on 5 November 2023. See the following link: <http://surl.li/zhoyer>.

Furthermore, the statement by Israeli Minister Smotrich on 30 May 2024, in which he threatened to destroy Palestinian cities, neighborhoods, and refugee camps in the northern West Bank, similar to what the military has carried out in Gaza, confirms that what is happening in Gaza and the West Bank in terms of destruction, targeting, and cold-blooded killing of Palestinians is nothing but the implementation of a policy and an approach agreed and adopted by the political leadership of the Israeli occupying state[37].

In this regard, we point out that many scholars, international law writers, and UN rapporteurs have adopted the classification of the killings occurring in the Gaza Strip and the widespread, systematic destruction of property as falling within the scope and definition of the crime of genocide against Palestinians[38].

The ICJ issued its ruling on 26 November, regarding the provisional measures requested by South Africa from ICJ to stop the killing and genocide of Palestinians. This also indicates the Court's belief in the admissibility of the request and the availability of acceptable and convincing indicators of the commission of genocide. Among the most important measures that ICJ requested the occupying state to take are[39]:

- Israel is required to take all measures within its power to prevent the commission of all acts covered under Article II of the Convention on the Prevention and Punishment of the Crime of Genocide.
- In its decisions, ICJ calls on Israel to ensure that it takes all measures within its power to prevent and punish the direct and public incitement to commit genocide against members of the Palestinian group in the Gaza Strip.

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[37] Anadolu Agency. "Finance Minister Bezalel Smotrich vows to continue controlling the West Bank and prevent the establishment of a Palestinian state...". Published on 30 May 2024. See the following link <http://surl.li/tfxsum>.

[38] From the Euro-Med Human Rights Monitor: "Consensus among International Law scholars that what is happening in Gaza is genocide is a pivotal point for holding Israel accountable". Published on 3 November 2023. See the following link: <http://surl.li/hwzivx>

[39] Palestinian News and Information Agency. 'International Court of Justice Orders Israel to Take Measures to Prevent Genocide in Gaza.' Published on 26 January 2024. See the following link: <http://surl.li/rhlnaq>

- ICJ demands that Israel take immediate and effective measures to ensure the provision of essential services and urgent humanitarian aid to address the unfavorable living conditions faced by Palestinians in the Gaza Strip.
- ICJ calls on Israel to take effective measures to prevent the destruction of and ensure the preservation of evidence related to the claims concerning acts falling within the scope of Articles 2 and 3 of the Convention on the Prevention and Punishment of the Crime of Genocide (CPPCG)
- ICJ demanded that Israel submit a report to the Court regarding all the measures taken, including evidence that Israel has fulfilled its obligations in this regard, and set a deadline within a month for submitting this report.

### **Guarantees of the rights of women victims of loss based on Security Council Resolution 1325 and its complementary resolutions.**

To enhance the United Nations' protection of women's rights in armed conflicts, the Security Council sought to address the absence of provisions, measures, and guarantees for the protection of women and children in abnormal situations such as emergencies and international and non-international armed conflicts in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Accordingly, the UNSC sought to bridge this gap by developing binding international instruments and principles, through the adoption of a special agenda known as Women, Peace, and Security. This agenda is built on four pillars: (1) The role of women in preventing conflicts. (2) Women's participation in peace building. (3) Protecting the rights of women and girls during and after conflicts. (4) Addressing the specific needs of women during repatriation, resettlement, rehabilitation, reintegration, and reconstruction after conflicts. This initiative began with UNSC 1325 (2000)[40] and was followed by a series of resolutions, such as Resolutions 1889 (2009), 2122 (2013), 2242 (2015), and 2493 (2019).

In 2008, the UNSC moved from emphasizing these pillars to adopting specific measures and frameworks aimed at preventing and addressing conflict-related sexual violence. The first resolution in this direction was adopted in 2008 through UNSC Resolution 1820, in which the Council endorsed an accountability approach to address sexual and other forms of violence against women and girls during armed conflicts. This was later reinforced through four additional resolutions: 1888 (2009)[41], 1960 (2010), 2106 (2013), and 2467 (2019).

As a member of the United Nations, the State of Israel is obligated, like other states, to respect and adhere to the UNSC resolutions on Women, Peace, and Security[42]. Consequently, it has the duty to observe and uphold:

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[40] UNSC Resolution 1325 issued on 31 October 2000 in Session No. 4213 stipulates...:

9- Calls upon all parties to armed conflict to respect fully international law applicable to the rights and protection of women and girls, especially as civilians, in particular the obligations applicable to them under the Geneva Conventions of 1949 and the Additional Protocols thereto of 1977, the Refugee Convention of 1951 and the Protocol thereto of 1967, the Convention on the Elimination of All Forms of Discrimination against Women of 1979 and the Optional Protocol thereto of 1999 and the United Nations Convention on the Rights of the Child of 1989 and the two Optional Protocols thereto of 25 May 2000, and to bear in mind the relevant provisions of the Rome Statute of the ICC;

10. Calls on all parties to armed conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse...;

11. Emphasizes the responsibility of all States to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity, and war crimes including those relating to sexual and other violence against women and girls, and in this regard stresses the need to exclude these crimes, where feasible from amnesty provisions;

[41] UNSC Resolution 1820, issued on 19 June 2008 under the Women, Peace and Security Agenda, demanded that (all parties to armed conflict immediately take appropriate measures to protect civilians, including women and girls, from all forms of sexual violence, which could include, inter alia, enforcing appropriate military disciplinary measures and upholding the principle of command responsibility.

UNSC Resolution 1894, issued on 11 November 2009, affirms the Council's strong opposition to impunity for serious violations of international humanitarian law and human rights law and emphasizes in this context the responsibility of States to comply with their relevant obligations to end impunity and to thoroughly investigate and prosecute persons responsible for war crimes, genocide, crimes against humanity or other serious violations of international humanitarian law in order to prevent violations, avoid their recurrence and seek sustainable peace, justice, truth and reconciliation;

11- Recalls that accountability for such serious crimes must be ensured by taking measures at the national level, and by enhancing international cooperation in support of national mechanisms, draws attention to the full range of justice and reconciliation mechanisms to be considered, including national, international and "mixed" criminal courts and tribunals, and the ICC, and truth and reconciliation commissions, as well as national reparation programs for victims and institutional reforms; and underlines the UNSC's role in ending impunity...

[42] UN Charter, Article 25, provides that "The Members of the United Nations agree to accept and carry out the UNSC decisions in accordance with the present Charter".

- 1.The rights of women and girls guaranteed by the Fourth Geneva Convention, which protects civilians in general and women and girls in particular. These include avoiding targeting them, avoiding placing women in difficult living conditions, ensuring consideration of their gender, designating safe zones, and allowing them to move from besieged areas and combat zones to safe areas[43].
- 2.The obligations applicable to states under the Convention CEDAW of 1977 and its Optional Protocol of 1999.
- 3.Implementing special measures to protect girls and women from gender-based violence in situations of armed conflict, particularly rape and other forms of sexual abuse.
- 4.Prosecuting those responsible for the sexual violence and other forms of violence experienced by women and girls.
- 5.Excluding crimes committed against women and girls in armed conflicts from amnesty provisions.

It is evident that the occupying state has blatantly disregarded these directives. To the opposite, it has openly defied all UNSC resolutions on women, peace, and security, as well as the Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and CEDAW. This is demonstrated by the Israeli Knesset approving an amendment to the Israeli Civil Wrongs Law (State Liability) on 16 June 2012, which ensured impunity, lack of accountability, and immunity for perpetrators of violations against Palestinian women and men[44]. This amendment explicitly states that the state, as well as the leaders and members of the occupying army, bear no responsibility for compensating any physical or material injuries and damages caused by the Israeli army to Palestinians in the Occupied Territories.

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[43] Those obligations are provided in Articles 13, 14, 16, 23 and Articles (27-34) of the Fourth Geneva Convention.

[44] Amendment No. (8) Of the Civil Wrongs Law (State Liability) of 1952, legislated in 2012. This amendment provides that the inhabitants of an area that Israel classifies as “hostile entity”, are not entitled to claim compensations from Israel for whatever reason.

Furthermore, Israel's treatment of those affected by military operations in the Occupied Territory, in addition to being an official policy that reinforces impunity, also constitutes a glaring example of systematic discrimination against Palestinians in the Occupied Territory. While the occupying state has prevented Palestinian victims from receiving compensation and reparation for the harm caused by its forces, such as killing, destruction, and other violations, on 11 March 2024, the Israeli Knesset approved a new compensation law, which allows Israelis to file compensation claims against entities they label as supporting "terrorism." The law entered into force in June, permitting Israeli victims of operations or their families to sue the State of Palestine and secure compensation of no less than 10 million shekels (around \$2.75 million) for those killed, and 5 million shekels (around \$1.4 million) for those physically harmed[45].

The clear policy of systematic discrimination, which explicitly contravenes and violates ICERD, CEDAW, UNSC Resolution 1325, and its related Security Council resolutions on women, peace, and security, necessitates the mandatory intervention of the Security Council, to compel the Israel, the occupying state, to respect and implement Resolution 1325 as an international directive issued by the UNSC to protect women and girls in armed conflicts. Furthermore, this policy requires the mandatory intervention of the UNSC to hold the occupying state accountable, pursue and prosecute its forces and officials who violate and breach its provisions.

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[1] Afana, Mu'ayyad, "The Law of compensation for the Israeli casualties... a serious development to pirate Palestinian money". Published at BNEWS on 2 September 2024. See the following link: <http://surl.li/qigwiv>

## **The International responsibility arising from the practices of the Israeli occupying state**

The violations of the Israeli occupying state of the rules and provisions of Public International Law and IHL, and the applicability of the provisions and rules of the International Law concerning war crimes and crimes against humanity to the aforementioned practices and violations of the Israeli occupier, give rise to the international responsibility of the occupying state for these crimes and violations. Based on the provisions and rules of international law, the nature of this responsibility is both civil (compensatory) and criminal.

### **1. Civil Responsibility (Compensation and Reparation)**

The provisions of IHL affirm the responsibility of the occupying power to provide compensations for violating its provisions. Article 3 of the Hague Convention on the Regulations concerning the Laws and Customs of War on Land of 1907 stipulates that, "A belligerent party which violates the provisions of the said Regulations shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces".

Article 91 of the First Geneva Protocol provides that, "A party to the conflict that violates the provisions of the Conventions or this Protocol shall be liable to pay compensation if the situation so requires. It shall be responsible for all acts committed by persons who are part of its armed forces."

The ICJ has affirmed in several precedents the obligation of states that violate the provisions of the law to redress the harm resulting from their breaches. Such states must bear the consequences of their unlawful actions, including material liability and compensation for losses necessary to restore the situation to its original state, i.e., to the condition that existed prior to the commission of the act.

The Advisory Opinion of the ICJ on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory may highlight this. The ICJ, in several sections of the Advisory Opinion, emphasized the obligation of the party violating its international commitments to bear the responsibility for compensation and reparation of the harm caused by its breach[46].

Moreover, in its Advisory Opinion on the Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, issued on July 19, 2004, ICJ reaffirmed the occupying state's responsibility to provide compensation and reparation for the victims of its practices and breaches of IHL, as it emphasized that “Israel is also under an obligation to provide full reparation for the damage caused by its internationally wrongful acts to all natural or legal persons concerned. The Court noted that the fundamental principle is that 'reparation must, as far as possible, wipe out all the consequences of the unlawful act and restore the situation to what it would have been had the act not been committed’[47].

Accordingly, the perpetration and execution of acts prohibited by the rules of IHL by the Israeli occupier-such as the cases of loss resulting from Israel's violations and failure to comply with the rules of the international law, as well as its deliberate and evident intent to commit such breaches- necessitate holding it accountable and demanding financial and in-kind compensation, as well as reparation, for all damages caused by those acts. This includes redress for indirect victims and all those harmed because of the loss.

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[46] Articles 149 and beyond of the Advisory Opinion of the ICJ on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory. Document No. 13/7/2004 Es-10/A/273.

[47] International Court of Justice, Advisory Opinion, Op Cit, Para 269, P 73



## **2. Criminal responsibility (Holding the perpetrators of these crimes accountable)**

In addition to the rights of victims to compensation and reparation, the classification and inclusion of violations of certain international obligations as acts characterized as war crimes and other international crimes (genocide and crimes against humanity) grant the affected party the right to criminally pursue, prosecute, and hold accountable individuals who ordered, planned, or incited the commission of these crimes, as well as those who committed and executed those crimes.

Referring to the provisions and principles of public international law and the provisions of IHL concerning situations of military occupation, we find that Article 146 of the Fourth Geneva Convention\*[48] and Article 88 of the First Additional Protocol to the Geneva Conventions\*\*[49] affirm the right of parties subjected to war crimes to prosecute those who ordered or committed these crimes and hold them accountable as war criminals before their national courts.

As such, the victim of these crimes, based on the rules and provisions of the law of military occupation and IHL, has the right to prosecute all the persons who ordered the commission of such crimes, whether they are military personnel, politicians, or state officials. Moreover, this right extends to include the soldiers themselves, as criminal prosecution applies to them for being the persons who effectively executed these crimes in the Occupied Palestinian Territories.

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[48] Article 146 stipulates that, “The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a 'prima facie' case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following article...”

## Conclusion

The loss resulting from the violations and practices of the occupation undoubtedly constitutes a war crime, a crime of genocide, and a crime against humanity. Moreover, the harm caused by this crime has extended to tens of thousands of Palestinians whose economic and social lives have been profoundly affected, in addition to their enduring and lifelong psychological pain and suffering due to the loss. Therefore, considering the negative repercussions of these practices and the fact that they result from the occupier's disregard for Palestinian lives and emotions, it is imperative to seek to:

- 1.** Form a national committee to document cases of loss in the West Bank and Gaza Strip, with the aim of documenting the circumstances and facts of these cases and identifying the indirect victims. This documentation would facilitate the use of the records for accountability, seeking reparations, and achieving justice for the victims, whether individually or collectively. Such documentation would also serve as an official resource for international bodies, including the United Nations and its various organizations, as well as international criminal and human rights courts, such as the ICC and the ICJ. This is particularly important as international judicial bodies, both criminal and human rights-related, are currently looking into cases of war crimes and crime of genocide.

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[49] Article 88 of the First Additional Protocol to the Geneva Conventions on mutual assistance in criminal matters provides that:

- 1- The High Contracting Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of grave breaches of the Conventions or of this Protocol.
2. Subject to the rights and obligations established in the Conventions and in Article 85, paragraph 1 of this Protocol, and when circumstances permit, the High Contracting Parties shall co-operate in the matter of extradition. They shall give due consideration to the request of the State in whose territory the alleged offence has occurred.
3. The law of the High Contracting Party requested shall apply in all cases. The provisions of the preceding paragraphs shall not, however, affect the obligations arising from the provisions of any other treaty of a bilateral or multilateral nature, which governs or will govern the whole or part of the subject of mutual assistance in criminal matters.

**2.** Launch a global campaign by civil society organizations (CSOs) to highlight this issue and draw international public attention to it. This is particularly important given that international engagement is often limited to direct victims, with little to no attention paid to indirect victims of the occupier's actions and crimes. Exposing the truth about the reality and scale of those affected by the breaches—namely, the indirect victims—would encourage public opinion to increase pressure and take action to halt these practices. It would also push for the accountability and prosecution of Israeli war criminals and perpetrators of genocide.

**3.** Issue a clear and explicit resolution from the General Assembly acknowledging the civil responsibility of the Israeli occupier, and the imperative that Israel provides material reparation for the damage caused to civilians and civilian property due to its violations and breaches of the provisions of IHL, through the use of force, as well as its violations and disregard for the guarantees of civilian populations and their rights.

**4.** Incorporate the issue of victims of loss into the files of ICC to consider their status in the Court's decisions regarding compensation. It is also important to form a committee from CSOs to represent this group at ICC and ICJ to ensure justice and reparation.

**5.** One reason for the excessive behavior of the leaders and soldiers of the state of occupation is their feeling of protection and immunity. As the UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 said: The Israeli occupation has been characterized by two features - first, the commission of serious and multiple violations of international humanitarian law and acts amounting to war crimes, and second, the silence of the international community and its disregard for imposing any measures or real accountability on the occupation state<sup>[50]</sup>. Hence the importance of working with non-governmental organizations to form a global coalition to hold accountable and prosecute criminals of the occupation state, at the national courts in countries that have accepted to open their criminal jurisdiction, meaning those that have adopted universal jurisdiction.

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[50] Situation of human rights in the Palestinian territories occupied since 1967. Note by the Secretary-General, 21 October 2019, United Nations, A/74/507, Para 59-60 p 17.

**6.** Act at the level of the high contracting parties to the Fourth Geneva Convention and lobby with them to shoulder their legal responsibility in ensuring that Israel, the occupation state, respects the rules of protection of civilian populations enshrined in these conventions, and prosecute those states before their national courts for their failure to meet their legal obligations to protect Palestinians from violations and crimes committed against them. In particular, open their national jurisdiction to try, and prosecute Israeli war criminals for crimes they committed in Gaza Strip and the West Bank[51].

**7.** Take action and lobby through CSOs and international organizations for ICC's Pre-Trial Chamber to respond to ICC Prosecutor's request dated 20 May 2024, to issue arrest warrants against Israeli Prime Minister Benjamin Netanyahu and Israeli Defense Minister Yoav Gallant on charges of committing war crimes according to the Court's Statute.

**8.** The ICC must open an investigation on cases of loss, specifically extrajudicial executions and forced disappearance of hundreds of detainees.

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[51] Common Article 1 of the Geneva conventions provides that, "The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances". The conventions, including Article 146 of the Fourth Geneva Convention, demand that The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following article. Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts..."

**9.** The scale of violations and crimes committed, and continue to be committed, in the Occupied Palestinian Territory would not have been of such atrocity and magnitude had the UNSC shouldered its responsibilities-arising from the UN Charter, international conventions, or its own resolutions, particularly Resolution 1325 and other resolutions related to women, peace, and security. As such, women institutions and women's rights defenders at the national, international, and regional levels must take action and exert pressure on the UNSC to intervene and impose adherence with Resolution 1325 on Israel, the occupation state, and establish specific mechanisms to enable Palestinian women and men to access reparations and compensation for Israeli violations and breaches.

**10.** Exert pressure on the ICC to issue the arrest warrants that the Prosecutor had requested against the prime minister and defense minister of the state of occupation, as the delay in issuing these warrants has reinforced the occupation leaders' sense of immunity and impunity.