Response to the UN Commission of Inquiry's October 2026 Report

A critical analysis of the October 2026 Report of the United Nations Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel (A/81/430)

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October 2026

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Summary

In its latest report, issued on 26 October 2026 (the "Report"), the UN Commission of Inquiry on the Palestinian Territory and Israel asks the General Assembly to accept that Israel is committing genocide in Gaza and the crimes against humanity of extermination and persecution in Judea and Samaria. These are the gravest charges known to international law. The Report does not prove them. It reaches them by cutting the words of Israeli officials in half, recycling its own earlier allegations as evidence, citing sources that say the opposite of what is claimed, and erasing the killing of more than 1,200 people, most of them civilians, by Hamas and other armed groups on 7 October, the 251 people taken hostage and continuing attacks by Palestinian groups, including Hamas, with the support of the Palestinian Authority. This response tests the Report's findings against its footnotes. They do not survive the exercise.

- **The standard of proof (Part One).** Every finding, including genocide, is made on "reasonable grounds": the test for issuing an arrest warrant, not for proving guilt or State responsibility. The Report never tells its readers so, and one of the Commission's members has since called it "not a high standard". The findings do not in any event meet even that standard, because they rest on evidence the Report has distorted; and the Report does not demonstrate that any of the findings meet the Commission's rule on corroboration. More than 70 statements in the Report carry no source at all, 40 of which are statements on which a finding depends. Israeli accounts are "claimed" or "alleged"; the accounts of complainants are, for the most part, reported as fact. Findings that are at most arguable are presented as established fact.
- **The history (Part Two).** The Report explains Israeli conduct today through a history of 1948 that is fundamentally distorted and unsourced. It leaves out the Arab rejection of partition and the invasion by five Arab armies, and treats Israel's survival of that war, and its fewer dead, as evidence of guilt. That history is not part of this inquiry: the Commission says it has yet to examine 1948 and will deal with it in later reports. The Commission appears to be using this Report to establish a false account of Israel's founding and give it the authority of a United Nations finding.
- **Partial quotes (Part Three).** The Report quotes Israeli officials without the part of the sentence that explains them, and presents what is left as an admission. A defensive line becomes a "new border", pressure on Hamas becomes territorial ambition, and a statement that most of those killed were armed becomes evidence that soldiers kill people who pose no threat. Every cut runs in the same direction. That cannot be put down to carelessness.
- **The Commission as its own witness (Part Four).** The Commission treats its own earlier allegations as evidence. Claims made in one paper are repeated in the next, losing their qualifications on the way, until a single detainee's account, published three times over, is offered as an example of the conduct from which genocidal intent is inferred. Figures from the Hamas-run Ministry of Health reach the Report through United Nations documents and are stated as the Commission's own. Most of the earlier findings were made under a chair who had called for sanctions against Israel before she was appointed and with a member whose antisemitic remarks drew condemnation from Western governments, and this Report adopts them without re-examining them. Repetition is presented as proof.

- **Sources that say the opposite (Part Five).** The Commission's footnotes repeatedly undercut its findings. Read to the end, the sources it cites on extermination, on the deaths in Gaza after the ceasefire, on the warnings given near the Yellow Line and on impunity demonstrate something different, and often the reverse. Either the Commission did not read its sources in full, or it chose not to report what they said. Either way, the reader cannot rely on the Report's account of its own evidence.
- **What the Report leaves out (Part Six).** The Report sets out to explain the "drivers" of violence, and leaves out the facts that would do so: the hostages, the United Nations' findings of sexual violence by Palestinian terrorists on 7 October, Hamas's declared intent to kill Jews, the fact that Hamas embeds itself in the civilian population, and fights from hospitals and among civilians, its violence against Israelis and Palestinians alike, and the Palestinian Authority's payments to prisoners and the families of attackers. What it does mention, it turns against Israel. The word "hostage" does not appear in the Report at all.
- **From these facts to atrocity crimes (Part Seven).** The Report reaches the gravest charges in international law by skipping the step each one requires. Extermination is found without separating fighters from civilians; the Commission's earlier finding that settler violence "may be attributable" to Israel becomes, in this Report, a finding that Israel intended it; a difference in policing becomes persecution; a continuing genocide is found on the strength of a handful of incidents, none shown to have been directed at Palestinians as a group; a finding that children are targeted for their age rests on a paper that infers a policy of targeting boys as "future terrorists" from the number of boys killed and one minister's remark about one boy; and findings of rape and torture rest on allegations in cases that, with one exception, no one outside the Commission can identify.
- **Recommendations that misstate the law (Part Eight).** The recommendations present the Commission's conclusions as the requirements of the International Court of Justice ("ICJ"). They overstate the Court's Advisory Opinion and set the Court's provisional measures orders beside a genocide finding the Court has never made. A State acting on them would be acting on the Commission's views while believing them to be the Court's.

Part One: The Standard of Proof

1. Every finding in the Report, and in the earlier reports it relies on, rests on the same standard of proof. Because this methodological choice governs the whole of the Commission's work, it must be addressed at the outset.

A. The standard the Commission applies

2. The Commission's Terms of Reference state: "the Commission has decided to adopt the same standard of proof as the majority of international commissions of inquiry on human rights, that is one of 'reasonable grounds'. This means that findings will be included in the reports where the 'reasonable grounds' standard of proof has been met, namely where, based on a body of verified information, an objective and ordinary prudent observer would have reasonable grounds to conclude that the facts took place as described and, where legal conclusions are drawn, that these facts meet all the elements

of a violation or abuse, and any individual identified is responsible for the violation or abuse."[1]

3. The test is only whether the material gives a reasonable basis for concluding that events happened as described. That is not proof beyond reasonable doubt, nor even proof on the balance of probabilities (section E). The Commission need not rule out other reasonable explanations of the same material, so a finding on reasonable grounds can stand even where another reasonable conclusion is available. The standard asks only whether a conclusion is reasonably open on the material, not whether it is established.

4. The Terms of Reference add a corroboration rule: "In applying the standard of proof adopted, the Commission will pay particular attention to corroborating relevant information it receives or has collected. It will do so by verifying every piece of information by obtaining consistent information from at least two other independent and reliable sources."[2] They then allow an exception: "In some cases, information provided by a reliable primary source may need to be corroborated by only one additional independent and reliable source, which may include the investigator's findings."[3] The second source, in other words, may be the Commission itself.

B. The Report never states it

5. Paragraph 2 of the Report states only that the Commission "applied the same methodology and standard of proof previously adopted for its investigations". Its footnote links to the Commission's Terms of Reference, but the Report itself never states the standard, let alone explains it: the words "reasonable grounds" appear nowhere in it.[4] A reader of its findings of murder, persecution and genocide is never told that not one of them has been established to the standard any international or domestic court requires for a finding of guilt or of State responsibility.

C. The standard the Commission uses is the lowest threshold the International Criminal Court applies to an individual

6. The same phrase is used in the Rome Statute of the International Criminal Court, which sets three tests for a case against an individual. An arrest warrant requires "reasonable grounds to believe" that the person committed the crime.[5] Sending the case to trial requires "substantial grounds to believe", and a conviction requires proof "beyond reasonable doubt".[6] The Commission's standard is the first and lowest of the three. Only one test in the entire Statute is lower: the test for deciding whether to open an

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[1] Terms of Reference of the Independent International Commission of Inquiry, section IV ("Standard of Proof"): https://www.ohchr.org/sites/default/files/2022-01/TORs-UN-Independent_ICI_Occupied_Palestinian_Territories.pdf.

[2] Ibid.

[3] Ibid.

[4] The words "reasonable grounds" do not appear anywhere in the text of the Report. Paragraph 2 refers only to "the same methodology and standard of proof previously adopted for its investigations".

[5] Rome Statute of the International Criminal Court, article 58(1)(a): https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf.

[6] Rome Statute, art. 61(7) (the Pre-Trial Chamber is to determine "whether there is sufficient evidence to establish substantial grounds to believe that the person committed each of the crimes charged") and art. 66(3) ("In order to convict the accused, the Court must be convinced of the guilt of the accused beyond reasonable doubt".): https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf.

investigation at all. The Commission's standard is where a case against an individual begins, not where it ends.

D. The Commission quoted the correct standard, then set it aside

7. The Report's findings of genocide rest on the Commission's conference room paper on genocide of 16 September 2025 ("the September 2025 paper"), which paragraph 54 of the Report cites. Whether a State has committed genocide is a question for the ICJ, and the September 2025 paper itself sets out that Court's standard: "While the standard of proof to find an accused guilty of genocide in a criminal trial is 'beyond reasonable doubt', the standard in establishing State responsibility is based on 'evidence that is fully conclusive'. According to the International Court of Justice, the court has to 'be fully convinced that allegations made in the proceedings, that the crime of genocide or the other acts enumerated in Article III have been committed, have been clearly established.'"[7]

8. At the outset, however, the September 2025 paper states that the Commission "applies the same methodology and standard of proof previously adopted for its investigations, that is, 'reasonable grounds to conclude'".[8] Later, it says once that it finds, "On the basis of fully conclusive evidence", that public statements made by Israeli authorities "are direct evidence of genocidal intent".[9] But when it reaches the responsibility of the State, the one question the Court's standard governs, it restates its finding of intent on the lower standard: "The Commission has concluded on reasonable grounds that Israeli political and military leaders possess the specific intent to commit genocide against Palestinians in Gaza".[10] Two paragraphs later it "therefore concludes that the State of Israel is responsible for the commission of genocide".[11] Its conclusion on the acts of genocide is likewise stated "on reasonable grounds".[12] A conclusion "on reasonable grounds" means only that genocide is one reasonable reading of the material, not that it is the only one, or even the most likely one. Other conclusions remain open, including Israel's own account, that it was fighting Hamas and seeking to recover the hostages.

9. The Commission did not argue that the Court's standard was wrong, or that it should not apply. It told its readers that genocide by a State must be proved by "fully conclusive" evidence, and then found the State responsible on a finding of intent made on the standard used to issue an arrest warrant. That is the standard for naming a suspect, not for proving a case. A finding of genocide against a State made on "reasonable grounds" is, by the Commission's own account of the law, not a finding that the State has committed genocide.

E. The genocide finding contradicts itself

10. Where genocidal intent is inferred from a pattern of conduct, international law requires that it be the only reasonable inference available. The Commission's September 2025

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[7] A/HRC/60/CRP.3, para. 156, citing *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Bosnia and Herzegovina v. Serbia and Montenegro*), Judgment, I.C.J. Reports 2007, p. 43, para. 209: https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session60/advance-version/a-hrc-60-crp-3.pdf.

[8] A/HRC/60/CRP.3, para. 7.

[9] A/HRC/60/CRP.3, para. 220.

[10] A/HRC/60/CRP.3, para. 238.

[11] A/HRC/60/CRP.3, para. 240.

[12] A/HRC/60/CRP.3, para. 252.

paper quotes the ICJ's formulation: intent may be inferred only if "this is the only inference that could reasonably be drawn from the acts in question".[13] In its next paragraph, it restates the test in words of its own: "while there may be other reasons for a discrete act (for example, to achieve a military advantage by forcibly transferring the group, or to destroy the existence of an armed group), this does not preclude the existence of a genocidal intent, as long as the genocidal intent is the only reasonable inference to be drawn, having ruled out other inferences that are not reasonable, based on the totality of evidence at hand."[14] That is not the Court's test, and it should not be accepted as one. It allows the Commission to set aside the military explanation for each act, one act at a time, and then to treat genocide as the only explanation left. Under the Court's test, if the acts can reasonably be explained by the aim of destroying an armed group, genocidal intent is not the only reasonable inference, and the test is not met.

11. The two tests sit uneasily together. The "only reasonable inference" test requires every other reasonable explanation to be ruled out. A finding that there are "reasonable grounds" to conclude that genocidal intent is the only reasonable inference does not rule out the alternatives. It means only that an observer would have reasonable grounds to think so. Ruling out the alternatives is what the criminal standard requires. The standard for the responsibility of a State is higher: the ICJ requires evidence that is "fully conclusive" (section D). At the reasonable-grounds stage, the alternatives do not have to be excluded at all. A reasonable-grounds finding of genocidal intent therefore cannot meet the "only reasonable inference" test. It turns that test on its head: instead of excluding every other reasonable explanation, it requires only that genocide be one of them. The obvious alternative is Israel's stated purpose: to defend itself against Hamas and other armed groups after 7 October 2023 and to recover the hostages. The September 2025 paper notes that explanation and sets it aside in a finding of intent that, when it comes to the State's responsibility, it describes as made "on reasonable grounds".[15] The present Report, which repeats the finding, does not mention that explanation at all: the words "self-defence", "military necessity" and "hostage" do not appear in it.

12. A member of the Commission has since confirmed both points. At a public debate in Melbourne on 8 October 2026, Chris Sidoti said of the inference of genocidal intent: "That's a really high test. It's a test in fact that in my opinion is higher than the criminal standard of beyond reasonable doubt." Of the Commission's own standard, agreeing with his opponent, he said: "reasonable grounds … it's not a high standard. It's not beyond reasonable doubt, it's not the balance of probabilities, although it probably comes close to that". He added: "We are not a court … We're not even prosecutors."[16] On his own account, the Commission found genocidal intent, which he says demands more than proof beyond reasonable doubt, on a standard he accepts is not high.

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[13] A/HRC/60/CRP.3, para. 159, quoting *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Croatia v. Serbia*), Judgment, I.C.J. Reports 2015, p. 3, para. 148: https://www.icj-cij.org/node/5125.

[14] A/HRC/60/CRP.3, para. 160.

[15] A/HRC/60/CRP.3, paras. 177 and 238.

[16] Transcript of the debate between Chris Sidoti and Brian Cox, Caulfield Synagogue, Melbourne, 8 October 2026, published by UN Watch, 11 October 2026: https://unwatch.org/chris-sidoti-v-brian-cox-debate-transcript/; *see also* Jewish News Syndicate, M. Wagenheim, 13 October 2026: https://www.jns.org/news/world/un-panel-member-admits-he-colleagues-accused-israel-of-genocide-without-verifying-facts-independently.

F. One-sided evidence, untested and recycled

13. Israel has not cooperated with the Commission, and the Report records that Israel did not respond to its requests for information.[17] The Commission's evidence therefore comes almost entirely from one side. A low standard of proof, applied to one-sided evidence that is never tested in any adversarial process, is a recipe for findings that confirm the hypothesis with which the inquiry began. When the Report says that the Commission "investigated" a strike in Gaza or a killing in Judea and Samaria, it means that it reviewed material and spoke to witnesses at a distance: as the Commission explained four months earlier, it "conducted remote interviews with victims and witnesses".[18] But whether a strike was lawful depends on what the commander who ordered it knew and intended at the time: the target, the harm to civilians that could be expected, and the military advantage anticipated (Part Seven). Interviews with people on the ground, conducted at a distance, cannot establish any of that.

14. The exception to the corroboration rule (section A) compounds the problem. Under it, a reliable primary source may in some cases need only one other source to corroborate it, and that source may include "the investigator's own findings".[19] That lets an investigator's own examination of documents or imagery corroborate a witness. It does not permit the Commission to treat its own earlier conclusions as fresh evidence, but that is exactly the approach here. A single detainee's account, first published in October 2024, reappears almost word for word and without attribution in a March 2025 paper, which adds: "The Commission verified four such cases."[20] That paper goes on to describe two accounts, one of them the account already published; how any of the four cases was verified, it does not say. The account then appears in the September 2025 paper, as an example of the sexual violence from which, three paragraphs later, that paper infers "the intent to destroy Palestinians as a group."[21]

G. The Report does not meet the Commission's own rule of corroboration

15. The standard of proof is defined by reference to "a body of verified information", and the Terms of Reference say how information is to be verified: "every piece of information" is to be corroborated by "at least two other independent and reliable sources", or, "In some cases", by one (section A).[22] That rule is the safeguard on which a standard this low depends. Information that has not been verified in this way is not part of a "body of verified information", and a finding that rests on it is not a "reasonable grounds" finding even on the Commission's terms.

16. The Report does not show that the rule was applied to any of its findings. Neither "corroborate" nor "reliable", in any form, appears in it. The word "verified" appears twice: once in a conditional, of an allegation against the Palestinian security forces (paragraph 73 of the Report), and once in the statement that "the Commission has verified four additional cases of sexual violence in detention by Israeli forces" (paragraph 31), with no indication of how. Paragraph 2 says only that the Commission "applied the same methodology and standard of proof previously adopted for its investigations" and

[17] Report, para. 4.

[18] A/HRC/62/22, para. 3: https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiopt/2606092E.pdf.

[19] Terms of Reference (note 1 above), section IV.

[20] A/79/232, para. 64; A/HRC/58/CRP.6, para. 118.

[21] A/HRC/60/CRP.3, paras. 210 and 213. The chain is traced in Part Four below.

[22] Terms of Reference (note 1 above), section IV.

"collected and preserved information from a variety of sources, in accordance with its standard methodology of evidence preservation". Preservation is not verification.[23]

17. Members of the Commission say that it verifies what it reports. Its former chair, Navi Pillay, has been reported as saying that "Every fact was verified by us", and at the debate in Melbourne (section E) Mr Sidoti said: "We do not come to conclusions unless we ourselves have conducted an investigation."[24] A figure in the September 2025 paper shows otherwise. That paper stated that 83 percent of those killed in Gaza were civilians. It reached that figure by taking a press report that Israeli intelligence had listed some 8,900 named members of Hamas and Palestinian Islamic Jihad (PIJ) as dead or probably dead by May 2025, subtracting that number from the 53,000 Palestinians it said had been killed by then, and counting everyone else as a civilian.[25] The arithmetic rests on an assumption that would be absurd in any war, but particularly this one: that the army knew the name of every fighter it killed. Hamas often fights in civilian clothes; the Ministry of Health counts its dead without distinguishing them from civilians; and Israel's military puts the number of combatants it killed before the ceasefire at no fewer than 22,000 (Part Two J).[26]

18. The source the Commission relied on, published jointly by the Guardian, +972 Magazine and Local Call, made the point itself. Its sources explained that the number of militants killed "is likely higher than the number recorded in the internal database", because the database "does not include Hamas or PIJ operatives who were killed but could not be identified by name", nor fighters who were not formal members of either group.[27] Its authors saw only totals, not names, and could not verify the documents on which the list of operatives was based. They described their result as "an approximate civilian casualty ratio", and wrote that only once there was a ceasefire would it "be possible to precisely calculate the number of civilian and militant casualties".[28] The Commission dropped all of this and wrote: "it means that 83 percent of those killed in Gaza were civilians."[29] Asked at the debate whether the Commission had independently established that the remaining "approximately 44,000 people were civilians", Mr Sidoti answered: "No we

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[23] Report, paras. 2, 31 and 73. The Report's footnotes do not use any of these words either.

[24] For Mr Sidoti, see note 16 above. Ms Pillay was speaking in an interview with Ingo Zamperoni for ARD's tagesthemen on 9 October 2026; her remarks are reported in English in the Jewish News Syndicate article cited in that note. The German text published by tagesschau.de, edited for print, reads: "Wir haben also im Grunde wie ein Gericht gearbeitet, mit all den Instrumenten der Gewaltenteilung. Jeder Sachverhalt wurde von uns verifiziert.": https://www.tagesschau.de/ausland/afrika/tagesthemen-interview-friedensnobelpreis-pillay-100.html.

[25] A/HRC/60/CRP.3, para. 21, citing the Guardian, 21 August 2025.

[26] J. Lovitky, "Israel – Hamas 2023 Symposium – Distinction and Humanitarian Aid in the Gaza Conflict", Articles of War (Lieber Institute, West Point), 13 November 2023 ("Hamas fighters frequently wear civilian clothes, drive civilian vehicles, and embed themselves in built up civilian areas"): https://lieber.westpoint.edu/distinction-humanitarian-aid-gaza-conflict/. The Commission itself has recorded Israel's statement that militants conceal "explosives and other weapons under civilian clothing": A/HRC/58/CRP.6, para. 103: https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session58/a-hrc-58-crp-6.pdf. On the Ministry of Health's records and the figure of 22,000, see note 89 below.

[27] The quotations from the investigation are from the version published by +972 Magazine: Y. Abraham, "Israeli army database suggests at least 83% of Gaza dead were civilians", 21 August 2025: https://www.972mag.com/israeli-intelligence-database-83-percent-civilians-militants/.

[28] Ibid. The authors also suggest that the civilian share could be higher still, because the Ministry of Health's total may itself be an undercount; the Commission's September 2025 paper does not make that argument.

[29] A/HRC/60/CRP.3, para. 21.

didn't because we don't have that information." He added: "So we literally do not know nor does anybody else know including the IDF how many militants were there."[30] By his own admission, the Commission did not check the figure. The September 2025 paper used it all the same, in its reasoning on genocidal intent.[31]

19. The only place where the Report says it has verified anything shows what the Commission takes the word to mean. Paragraph 31 states that, since its March 2025 paper on sexual and gender-based violence, "the Commission has verified four additional cases of sexual violence in detention by Israeli forces", among them the alleged gang rape at Megiddo prison described in the same paragraph. The Report does not say how. It says only that it applied "the same methodology and standard of proof previously adopted for its investigations" (paragraph 2). The March 2025 paper describes that methodology. It says that the Commission found its standard met "when information has been corroborated by one or several victims or witnesses or supported by digital evidence that demonstrates similar patterns and descriptions to those identified by witnesses", and that information below that level was excluded.[32] It then adds: "While corroboration of other violations requires obtaining concurring information from two other independent and reliable sources, verification for sexual violence may rely on a single primary source if deemed credible and if the case corresponds to a pattern that is consistent with other similar cases". On that method, a single credible account is enough if it fits a pattern, and corroboration may come from material showing "similar patterns" rather than from a second source for the same event. The March 2025 paper attributes this approach to guidance of the Office of the High Commissioner for Human Rights.[33] It is not the rule in the Commission's Terms of Reference, under which even the exceptional case requires "one additional independent and reliable source".[34] The Report does not say which test its four new cases met. On its own account, they were verified under a method that allows a single account to suffice. Those cases help carry the Report's findings of the crimes against humanity of rape, torture and persecution (Part Seven H).

20. Where the Report's sources can be traced, they are often not independent of one another, and its figures for the dead in Gaza lead back to Hamas. They are the figures of the Ministry of Health in Gaza, which is run by Hamas, a terrorist organisation at war with the State the Commission is investigating. The United Nations agency that first repeats them says whose they are; as they are cited onward, the attribution falls away; and the Commission ends by stating them in its own voice, without ever telling its readers that they come from Hamas (Part Four F). A fact-finder that accepts one belligerent's figures about the other without testing them, and presents them without saying whose they are, has stopped finding facts. Its other sources are no more independent: the Commission's earlier papers cite one another (section F above and Part Four).

21. The Terms of Reference do not say what makes a source "reliable", and the Report does not say which of its sources the Commission considered reliable, or why. That is not a technicality. The sources on which the Report's findings ultimately rest include the Hamas-run Ministry of Health in Gaza, cited through its Facebook page (paragraph 34) and, in the earlier papers on which the Report relies, through the Ministry's Telegram

[30] See note 16 above.

[31] A/HRC/60/CRP.3, para. 180.

[32] A/HRC/58/CRP.6, para. 6: https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session58/a-hrc-58-crp-6.pdf.

[33] A/HRC/58/CRP.6, para. 6 and footnote 3.

[34] Terms of Reference (note 1 above), section IV.

channel, together with the Media Office of the de facto authorities in Gaza and Addameer, a Palestinian prisoners' organisation designated by Israel's Ministry of Defense as an arm of a terrorist organisation;[35] a single blog post (paragraph 16); a press report introduced with "reportedly" (paragraph 18); and a statement that the Israeli military "told the media" something, with no media report identified (paragraph 39). The Terms of Reference require the Commission to ask whether each of these is reliable for the purpose for which it is used. The Report never asks. When it does weigh credibility, it weighs it unevenly: Israeli explanations are "claimed", "alleged" or "reportedly" given, while the accounts of complainants are, for the most part, reported as fact (Parts Five F and Six C).

22. Many statements have no source at all. The review of the Report conducted for this response identified over 70 of them: including 60 assertions of fact and 12 characterisations of intent. Forty are statements on which a finding depends. An absent footnote is not always absent evidence: a commission may rely on its own interviews or analysis. But it must say so, and say enough for the reader to test it. The Report does neither. It states, without any source, that the Commission "is aware of the use" by Israeli forces of an artificial intelligence tool called "Where's Daddy"; that "at least 196 Palestinians were killed near the Yellow Line"; that the Commission has identified "at least nine new military bases" along that line; that analysis it does not disclose identified the bombs used in Nuseirat; and that the Israeli military justified one killing by saying that the victim "looked suspiciously at the ground".[36] The rules of engagement, on which the persecution finding rests, "were reportedly broadened after 7 October 2023". The Report does not say who reported this.[37]

23. None of this would require the Commission to expose its witnesses. It would require it to say, for each finding, what kinds of source it relied on (testimony, documents, imagery or open-source material), how many, whether they were independent of one another, and why each was judged reliable. The Terms of Reference commit the Commission to verify every piece of information through "at least two other independent and reliable sources", and to work "guided by the principles of independence, impartiality, objectivity and integrity".[38] The Report gives the reader no reassurance that this discipline was observed in a single case. A finding that cannot be shown to rest on verified information fails the Commission's standard, however low that standard is.

H. The findings fail even this standard

24. Verification is only one part of the standard. The other asks whether, on that information, "an objective and ordinary prudent observer would have reasonable grounds to conclude" that the facts took place as described (section A).[39] Such an observer would read the whole of a statement, and the whole of a source, before drawing a conclusion from either.

25. Findings in the Report clearly fail that test. Its case for "territorial expansion" quotes the Chief of Staff calling the Yellow Line a "new border", and cuts away his explanation that

[35] Israel Ministry of Defense, National Bureau for Counter Terror Financing, "The Minister of Defense designated six organizations of the 'Popular Front for the Liberation of Palestine' as terror organizations" (Designation No. 375: Addameer): https://nbctf.mod.gov.il/en/Pages/211021EN.aspx. Addameer is cited in A/HRC/58/CRP.6, para. 116, and the Media Office in A/HRC/56/CRP.4, paras. 76 and 227.

[36] Report, paras. 15, 25 and 35 to 37.

[37] Report, para. 18.

[38] Terms of Reference (note 1 above), sections IV and IX.

[39] Terms of Reference (note 1 above), section IV.

the line is there to protect the communities inside Israel (Part Three).[40] To show that soldiers kill people who pose no threat, it quotes a commander from an article that records his statement that 70 percent of those killed were armed (Part Three B). The extermination finding never asks how many of the Palestinians killed in Judea and Samaria were armed, although even the UN analysis the Report cites found that fewer than half of them were shown to be uninvolved in violence (Part Five). The persecution finding relies in part on the claim that "Israeli security personnel are prohibited from using lethal force against Jewish Israelis in the West Bank", which the Commission's own source contradicts (Part Seven C).[41] The finding of a continuing genocide rests on a handful of incidents, none shown to have been directed at Palestinians as a group (Part Seven E).

26. In each case the material the Commission cites does not support its conclusion, and in most it points the other way. Even the lowest standard of proof asks whether a conclusion is reasonable on the evidence. A conclusion that the Commission's own sources contradict is not.

27. The reasoning fails the test as well. Even on the Commission's own account of the facts, its conclusions do not follow from them. Paragraph 45 finds that "the targeting of Palestinian civilians across different locations in the West Bank indicates a high level of coordination and organised planning and is the product of state policy". The targeting of civilians is what the Commission has to prove. Here it is the starting point. Paragraph 46 then counts "the inferred policy of the state" among its grounds for finding that the authorities knew the acts were part of an attack on civilians, and moves from knowledge to intent in a single phrase: "and so intended them". The policy is inferred in one paragraph and becomes evidence in the next. Paragraph 60 needs three sentences to get from impunity to policy. Sexual violence "met with almost complete impunity" indicates "tacit support". Impunity indicates "unwillingness, rather than inability, to act", "underscoring the systematic and structural nature of the discrimination". By the next sentence there is a "permissive policy currently in place". The premise itself is contradicted by the record (Part Five D). In the same way, the Commission's earlier finding that settler violence "may be attributable" to Israel becomes, in this Report, a finding that Israel intended it (Part Seven B), and a handful of cases, almost none of them identified, becomes a finding that the authorities encouraged sexual violence (Part Seven H).[42] An objective and ordinary prudent observer reasons from the evidence to a conclusion. The Commission reasons from its conclusion back to the evidence. That is how a partisan advocate argues.

I. The qualifier disappears

28. Whatever limited meaning a "reasonable grounds" finding has, it is lost the moment the Commission announces the finding. The Commission's own press release on its September 2025 paper was headed "Israel has committed genocide in the Gaza Strip, UN Commission finds".[43] The present Report states, without qualification, that "Israeli authorities and security forces continue to commit genocide in Gaza".[44] Its

[40] Report, para. 37.

[41] Report, para. 19.

[42] A/HRC/62/22, para. 73; Report, paras. 43, 47 and 49.

[43] OHCHR press release, 16 September 2025: https://www.ohchr.org/en/press-releases/2025/09/israel-has-committed-genocide-gaza-strip-un-commission-finds.

[44] Report, paras. 54 and 59.

recommendations call on Israel to "Immediately end the commission of genocide in Gaza" and ask the Prosecutor of the International Criminal Court ("ICC") to examine "genocide, crimes against humanity, and war crimes for amendment to existing arrest warrants and addition to future application for arrest warrants".[45]

29. That is the core of the problem. A "reasonable grounds" finding is a reason to investigate, and referring it to a prosecutor is what such findings are for. Presenting it to the world as an established fact, and demanding that a State "end the commission of genocide", is something else. It turns an untested allegation into a verdict.

J. Why it matters

30. Commissions of inquiry are not courts. The Commission acknowledges as much: its Terms of Reference refer to "the distinct and complementary role of judicial investigative processes".[46] One of its members has remarked: "We are not a court" (section E).[47] At most, a "reasonable grounds" finding identifies a matter that warrants investigation by a body that can hear both sides and apply a proper standard of proof. The Commission does not present its findings that way. It presents them as verdicts on the gravest charges known to international law, against a State and its officials, and it asks other States, international organisations and courts to act on them. That is partisan advocacy presented as findings. Every "finding" examined in the rest of this response should be read with that in mind.

Part Two: The Introduction and the Commission's Account of the "Drivers" of Violence

31. Paragraph 1 states that the Report "sets out its findings regarding the drivers of Israeli and Palestinian state violence". Paragraphs 6 to 11 are where it does so for Israel. They proceed in three steps: a history of 1948 (paragraphs 6 to 9); a claim that the policy said to have driven events in 1948 continues today (paragraph 10); and a conclusion about the conduct of Israeli soldiers since October 2023 (paragraph 11). The argument returns in the Report's conclusions, which state: "Since the 1947-48 war, Israel has continuously striven to expand territorially and displace Palestinians through violence. The intentional killing and harming of Palestinians have clear demographic and ethnic considerations that stem from Israel's colonising policies: seizing maximum land while minimizing the Palestinian population in relation to size, autonomy and viability".[48] Each step in the argument fails.

A. The central claim is asserted, not shown

32. The conclusion of the section is paragraph 11: "The perception of Palestinians and a possible Palestinian state as a threat to Israel and the desire to reduce the Palestinian population contribute to a permissive military culture where Israeli soldiers, with or without directives from commanders, directly target Palestinians whether or not they pose a real or immediate threat".

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[45] Report, section VI, recommendations to the Government of Israel (b) and to the Prosecutor of the International Criminal Court (a).

[46] Terms of Reference (note 1 above), section IV.

[47] See note 16 above.

[48] Report, para. 58.

33. The sentence accuses the State of Israel of a "desire to reduce the Palestinian population", and its soldiers of targeting people who pose no threat. Its only footnote reads "See A/HRC/62/CRP.2": a 94-page paper, cited without a paragraph number.[49] The words "with or without directives from commanders" leave open whether there were any directives, and the Report produces evidence of none. The "Testimonies by Israeli soldiers in Gaza" mentioned in the next sentence are not identified, quoted or cited.

34. Nothing in paragraphs 6 to 10 bridges the gap. The Report's history of 1948 is inaccurate. But even if it were accurate, neither it nor the political statements of 2024 and 2025 would say anything about why a particular soldier fired a particular shot in 2025. The Report places one beside the other; it offers no evidence linking them.

B. A history without sources, written before the Commission has completed its own inquiry

35. Paragraph 3 records that the Commission has asked for submissions on "the periods 1948-1949, the 1950s, and the years 2000-2005" and that it "proposes to separately deal with this in its reports to be hereafter submitted".[50] The Commission has not yet completed its own examination of the history of 1948. Paragraphs 6 to 9 nevertheless state conclusions about it as findings: that "With central direction and authorization, Yishuv forces systematically forced the Palestinian people from towns and villages with the intention of ensuring a greater Jewish demography", and that "Killings and expulsion were ordered and carried out to reduce the Palestinian population and make a Palestinian state less feasible".[51]

36. The only footnote in paragraphs 6 to 9 defines the word "Yishuv".[52] Everything else is unsourced: the casualty figures, the number of villages, the refugee figure, and the intentions attributed to the leaders of the Jewish community. Where the text points to evidence, it does not produce it. David Ben-Gurion "reportedly stated" one thing and "reportedly told the Cabinet" another, with no indication of who reported it or where.[53] "Explicit military orders to expel the Palestinian population were issued and, evidence indicates, carried out": no order is identified and no evidence is cited. "An Israeli intelligence document from 1948" is said to confirm the Commission's account, but the document is not named, dated, quoted or cited.

37. These statements are the foundation of the Report's claim that Israel's conduct today is driven by an intention, formed in 1948, to reduce the Palestinian population. They would not meet even the Commission's own low standard, which requires "a body of verified information".[54]

C. The missing protagonists: Arab rejection and the Arab invasion

38. In the Report's account of 1948, only one side makes decisions: the Jewish community under the British Mandate and, later, Israel. The Arab leadership under the Mandate and the Arab States do not appear at all. That omission inverts the history.

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[49] Report, para. 11, footnote 6 ("See A/HRC/62/CRP.2.").
[50] Report, para. 3.
[51] Report, para. 8.
[52] Report, para. 7, footnote 3.
[53] Report, para. 9.
[54] Terms of Reference (note 1 above), section IV.

39. The Partition Plan was accepted by the Jewish side and rejected by the Arab side.[55] Fighting began immediately after the General Assembly's vote, "with attacks by irregular bands of Palestinian Arabs attached to local units of the Arab Liberation Army composed of volunteers from Palestine and neighboring Arab countries".[56] On 15 May 1948, the day after Israel declared its independence, the Secretary-General of the League of Arab States informed the United Nations that "the Arab Governments find themselves compelled to intervene".[57] The armies of Egypt, Syria, Iraq and Lebanon invaded, with a Saudi formation fighting under Egyptian command, and forces from Transjordan intervened.[58]

40. The Arab leadership had announced its aims in advance. In October 1947, the Secretary-General of the Arab League, Abdul Rahman Azzam, told the Egyptian newspaper *Akhbar al-Yom* that a war would be "a war of extermination and momentous massacre which will be spoken of like the Mongolian massacre and the Crusades".[59] The Report attributes intentions to the Jewish leadership of 1948 without citing a single document. It ignores the declared intentions of those who went to war against it.

41. Jewish civilians were attacked throughout. To take one example recorded in United Nations documents, on 13 April 1948 a convoy travelling to the Hadassah Hospital on Mount Scopus was attacked and "76 doctors, nurses, and patients, were killed".[60] The Report does not mention a single attack on Jewish civilians.

42. When the fighting ended, "Egypt and Jordan retained control over the Gaza Strip and the West Bank respectively".[61] Neither established a Palestinian Arab state in those territories in the nineteen years that followed. The Report leaves this out too, although it bears directly on its claim that Israel acted in 1948 to make "a Palestinian state less feasible".

D. Survival treated as guilt

43. Read together, paragraphs 6 to 8 present three claims as though each were evidence of wrongdoing: that "After the war of 1948, the newly established State of Israel occupied over 75 percent of the former British mandate"; that 6,000 Jews were killed, against

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[55] United Nations Conciliation Commission for Palestine, Secretariat working paper, "The Future of Arab Palestine and the Question of Plebiscite", A/AC.25/W/19, 30 July 1949: https://unispal.un.org/pdfs/AAC25W19.pdf.

[56] IDF Archives, Ministry of Defense, "1947-1949" ("The war broke out immediately after the vote on the United Nations Partition Plan for Palestine"): https://archives.mod.gov.il/sites/English/theTimeAxis/Pages/1947-1949.aspx; United States Department of State, Office of the Historian, "The Arab-Israeli War of 1948": https://history.state.gov/milestones/1945-1952/arab-israeli-war.

[57] Cablegram dated 15 May 1948 addressed to the Secretary-General by the Secretary-General of the League of Arab States, S/745: https://www.un.org/unispal/document/auto-insert-214183.

[58] Office of the Historian (note 56 above).

[59] Middle East Quarterly, D. Barnett and E. Karsh, "Azzam's Genocidal Threat" (2011): https://www.meforum.org/middle-east-quarterly/azzam-genocide-threat, tracing the statement to Akhbar al-Yom (Cairo), 11 October 1947. The translation is theirs; its interpretation has been disputed by some historians.

[60] Letter from the National President of Hadassah to the Principal Secretary of the United Nations Palestine Commission, circulated 30 April 1948: https://unispal.un.org/pdfs/ABA5D15CC5DD38E0852570610069B97E.pdf.

[61] Office of the Historian (note 56 above).

13,000 to 15,000 Palestinian Arabs; and that "Yishuv forces expanded Israel's borders beyond what was decided on in the United Nations' Partition Plan".

44. None of these allegations shows a violation of international law. The outcome of a war says nothing about whether it was fought lawfully. Whether a resort to force was lawful turns on who started the war and whether force was used in self-defence. In 1948 the Arab States announced their own intervention. Whether the fighting itself was lawful is judged attack by attack, by the rules of distinction, proportionality and precaution. International law has never demanded that the parties to a war suffer equal casualties, or that the side that was attacked must suffer losses comparable to those of the side that attacked it.

45. The Jewish community did not escape lightly. Even on the Report's own figure, some 6,000 Jews were killed, out of a Jewish population of about 650,000, almost 1 percent of the Jewish community.[62] The Report presents that figure only as a point of comparison with Arab losses, as though the gap between the two were itself an indictment.

46. On the Commission's framing, the only outcome of 1948 that would not be held against the Jewish community of Mandate Palestine was its defeat, or at least losses on the scale its attackers intended. That proposition is morally indefensible, incoherent, and without basis in international law.

E. The history inverted

47. Paragraph 9 states that "Yishuv and Israeli leaders believed that the expulsion of the Palestinian population was necessary to securing the Jewish state, opposing a Palestinian state and blocking the exercise of the Palestinians' right to self-determination".

48. The record shows the opposite. It was the Jewish leadership that accepted a plan providing for an Arab state, and the Arab leadership that rejected it.[63] The Report accuses the side that accepted partition of opposing a Palestinian state, and says nothing of the side that rejected it. In 2011 Mahmoud Abbas, the President of the Palestinian Authority, said of the Arab rejection of the 1947 Plan: "It was our mistake. It was an Arab mistake as a whole".[64] Israel's Declaration of Independence, proclaimed on 14 May 1948, while the fighting was going on, stated: *"We appeal - in the very midst of the onslaught launched against us now for months - to the Arab inhabitants of the State of Israel to preserve peace and participate in the upbuilding of the State on the basis of full and equal citizenship and due representation in all its provisional and permanent institutions".*[65]

49. The Commission's claim that the refugee problem was the product of a plan is just as unsupported. Paragraph 8 opens: "With central direction and authorization, Yishuv forces systematically forced the Palestinian people from towns and villages". It cites no source for this,[66] nor could it. The Commission says that it will deal with 1948 in reports

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[62] Report, para. 7; Israel Hayom, 2 May 2019 ("In 1948, Israel had 850,000 residents, of which an estimated 650,000 were Jewish"): https://www.israelhayom.com/2019/05/02/israel-reaches-another-milestone-as-population-crosses-9-million.

[63] W/19 (note 55 above).

[64] Sapa-AP, reporting an interview with Israel's Channel 2, Mail & Guardian, 29 October 2011: https://mg.co.za/article/2011-10-29-abbas-palestine-arab-world-erred-on-1947-partition.

[65] Declaration of the Establishment of the State of Israel, 14 May 1948, Official Gazette No. 1, official translation, as reproduced by UNHCR Refworld: https://www.refworld.org/legal/decreees/natlegbod/1948/en/46551.

[66] Report, para. 8.

still to come, but it states its conclusion now (section B above).[67] And it presents the refugee problem without the war that produced it: a war the Arab side began after rejecting the partition plan (section C above). An account of 1948 that leaves out the war cannot explain what the war produced.

F. From 1948 to 2026: a bridge built from one quotation

50. Paragraph 10 opens: "The so called 'maximum land minimum population' policy is a continuous trend until today". The only evidence offered for a policy said to run unbroken for seventy-eight years is a single statement by the Minister of Finance, Bezalel Smotrich, in September 2025. Nothing to show for the seventy-seven years in between.

51. The statement was made on 3 September 2025, when Minister Smotrich presented a proposal to apply Israeli sovereignty to 82 percent of Judea and Samaria. As reported, he said: "The principle of sovereignty is maximum land and minimum population".[68] The proposal covered Judea and Samaria "besides Palestinian population centers".[69] Whatever view one takes of the proposal, it concerned where sovereignty should be applied. It said nothing about killing anyone, and the Report does not suggest that it was adopted as government policy. It cannot carry the weight the Report places on it, which is to link the conduct of Israeli soldiers in 2025 to an intention falsely said to have been formed in 1948.

52. The factual record runs the other way. Under its 1979 Treaty of Peace with Egypt, Israel undertook to "withdraw all its armed forces and civilians from the Sinai", and by 1982 it had done so, dismantling the settlements it had built there.[70] Under the Oslo Accords it handed the main Palestinian cities to the Palestinian Authority administration.[71] In 2000 it withdrew from southern Lebanon.[72] In 2005 it left Gaza, without any agreement and with nothing in return. It removed all 21 settlements there, home to some 8,500 Israelis, together with four settlements in northern Samaria, and withdrew every soldier from Gaza.[73] Two years later Hamas seized control of Gaza in what the Commission itself describes as a power struggle that "included widespread extrajudicial killings by both sides".[74] Gaza became the base for years of rocket fire on Israeli towns, and for the attack of 7 October 2023. Israel has also twice negotiated terms for a Palestinian state (section

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[67] See note 50 above.

[68] Israel Hayom, 3 September 2025: https://www.israelhayom.com/2025/09/03/smotrich-unveils-sovereignty-plan-for-82-of-judea-and-samaria/; Times of Israel, 3 September 2025, reporting the press conference held that day, at which the statement accompanying the map referred to "maximum territory and minimum Arab population": https://www.timesofisrael.com/smotrich-proposes-annexing-82-of-west-bank-in-bid-to-prevent-palestinian-state/.

[69] VIN News, 4 September 2025: https://vinnews.com/2025/09/04/605750/.

[70] Treaty of Peace between the Arab Republic of Egypt and the State of Israel, 26 March 1979, United Nations Treaty Series, vol. 1136, No. 17813, art. I(2): https://treaties.un.org/doc/Publication/UNTS/Volume%201136/volume-1136-I-17813-English.pdf.

[71] Interim Agreement on the West Bank and the Gaza Strip (Oslo II), 28 September 1995, art. X and Annex I: https://www.un.org/unispal/document/auto-insert-185434/.

[72] Statement by the President of the Security Council, S/PRST/2000/21, 18 June 2000: https://www.un.org/unispal/document/auto-insert-186854.

[73] C. Migdalovitz, "Israel's Disengagement from Gaza", Congressional Research Service, RS22000, 16 September 2005: https://www.everycrsreport.com/reports/RS22000.html.

[74] A/HRC/62/22, para. 41: https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiopt/2606092E.pdf.

G). The Report mentions none of this. A State that has "continuously striven to expand territorially" does not give back the Sinai or leave Gaza for nothing.[75]

G. Opposition to Palestinian statehood is not evidence of an intent to kill

53. Paragraph 10 also relies on Israel's opposition to Palestinian statehood. It cites a Knesset resolution of July 2024 and a statement by the Minister of Settlements and National Projects, Orit Strock, in February 2024. It does not explain how a position on statehood could show that soldiers target civilians, and it leaves out the reasons Israel gave for that position, which concern Hamas and 7 October.

54. In February 2024, the Knesset endorsed by 99 votes to 9 a government declaration stating that "Israel will continue to oppose unilateral recognition of a Palestinian state" and that "Such recognition in the wake of the October 7th massacre would be a massive and unprecedented reward to terrorism".[76] The July 2024 resolution, adopted by 68 votes to 9, opens by opposing a Palestinian state west of the Jordan as an existential danger that would perpetuate the conflict and destabilise the region. That much the Report paraphrases. It omits what follows: "It will only be a short matter of time before Hamas takes over the Palestinian state and turns it into a radical Islamic terrorist base, working in coordination with the Iranian-led axis, to eliminate the State of Israel", and promoting the idea of a Palestinian state "will be a reward for terrorism and will only encourage Hamas and its supporters to see this as a victory thanks to the massacre of October 7".[77]

55. These are statements of a security position, adopted by large cross-party majorities in the months after the worst massacre of Jews since the Holocaust. The Report strips out those reasons, quotes instead the most extreme remark of a single minister, and presents the result as evidence of a "desire to reduce the Palestinian population".[78]

56. Nor is Israel's position the constant the Report implies. Twice since 2000 an Israeli Prime Minister negotiated on terms for a Palestinian state, and on each occasion the Palestinian leadership did not accept them. At the end of the Camp David summit in July 2000, President Clinton said that Prime Minister Barak had "moved forward more from his initial position than Chairman Arafat", particularly on Jerusalem, and Israel's Ministry of Foreign Affairs stated that Mr. Arafat's positions on Jerusalem "prevented the achievement of an agreement".[79] Of the parameters he put forward that December, President Clinton later wrote: "Arafat's rejection of my proposal after Barak accepted it

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[75] Report, para. 58.

[76] Foundation for Defense of Democracies, 21 February 2024: https://www.fdd.org/analysis/2024/02/21/israeli-knesset-agrees-no-unilateral-palestinian-statehood/.

[77] Knesset resolution, July 2024, in the English text published by The Jerusalem Post, which also gives the vote: T. Lazaroff and E. Breuer, "Knesset opposes Palestinian state prior to Netanyahu's Washington trip", The Jerusalem Post, 17 July 2024 (updated 18 July 2024): https://www.jpost.com/israel-news/politics-and-diplomacy/article-810774. Hebrew text: A. Stein, Kan News, 18 July 2024: https://www.kan.org.il/content/kan-news/politic/774418/. The Report cites the Knesset's press release (footnote 4), which could not be accessed at the time of writing.

[78] Report, paras. 10 and 11.

[79] The White House, "Remarks by the President on the Middle East Peace Talks at Camp David", 25 July 2000: https://clintonwhitehouse5.archives.gov/textonly/library/hot_releases/July_25_2000_3.html; Israel Ministry of Foreign Affairs, "The Conclusion of the Camp David Summit", 25 July 2000, point 6, reproduced at https://www.jewishvirtuallibrary.org/the-conclusion-of-the-camp-david-summit.

was an error of historic proportions".[80] In September 2008 Prime Minister Olmert offered a Palestinian state on all but 6.3 percent of Judea and Samaria, with an exchange of Israeli land equal to 5.8 percent of that territory, and a link to Gaza, withdrawal from the Arab neighbourhoods of eastern Jerusalem and international control of the Old City. Mr Abbas did not accept it.[81] The positions the Report cites were adopted after 7 October 2023, for the reasons quoted above.

H. The Advisory Opinion does not cover the war in Gaza

57. Paragraph 5 states that "The Commission is guided by the 2024 Opinion of the International Court of Justice". That Opinion was advisory, not binding, and Israel has rejected it.[82] More importantly, the ICJ's Opinion expressly excluded from its consideration the conduct which the Commission's Report examines in Gaza. The Court stated that "the policies and practices contemplated by the request of the General Assembly do not include conduct by Israel in the Gaza Strip in response to the attack carried out against it by Hamas and other armed groups on 7 October 2023".[83] The Report's findings on Gaza concern exactly that conduct: the war Israel has fought there since the attack. Whatever the Opinion says about Israel's obligations as an occupying power, it does not decide whether a single strike, killing or detention in that war was lawful, still less whether Israel has committed genocide. On that conduct the Court gave no guidance at all, and it was the Commission's responsibility to establish each of its findings for itself.

I. 7 October and Hamas erased

58. Paragraph 11 states: "From 7 October 2023 to 9 October 2025, over 72,600 Palestinians have been killed in Gaza and over 1,000 in the West Bank". The count begins on the day Israel was attacked. The Report never says so. It speaks of "the attack of 7 October 2023 in south Israel" (paragraph 45), as though Israel were just the location. The Report names no attacker, no victim and no hostage. Hamas appears in the same sentence, but only as the group Palestinian civilians allegedly supported. Hamas and other armed groups crossed into Israel, killed more than 1,200 people, and took 251 hostages.[84] A report that takes 7 October as its starting point, yet never says what happened on 7 October, has not overlooked the attack. It has written around it.

59. The same framing runs through the Report's design. Paragraph 1 describes the inquiry as one into "the drivers of Israeli and Palestinian state violence".[85] By limiting itself to "state violence", the Commission leaves out the violence of Hamas, the organisation that started the war. The Commission's mandate, however, is to investigate "all alleged violations of

[80] B. Clinton, My Life (2004), as excerpted at https://www.jewishvirtuallibrary.org/president-clinton-reflects-on-2000-camp-david-summit. President Clinton also records that "Barak's cabinet endorsed the parameters with reservations". Some participants and historians have disputed his account of the negotiations.

[81] Associated Press, 18 November 2015, reporting interviews with Mr Abbas and Mr Olmert on Israel's Channel 10: https://www.foxnews.com/world/palestinian-leader-shines-new-light-on-failed-2008-peace-talks; Jewish Telegraphic Agency, 19 November 2015 (the offer was made on 16 September 2008): https://jta.org/?p=1098982.

[82] Prime Minister's Office, "Statement by PM Netanyahu", 19 July 2024 ("No absurd opinion in The Hague can deny this historical truth"): https://www.gov.il/en/pages/spoke-haag190724.

[83] *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, para. 81: https://www.icj-cij.org/node/204160.

[84] A/HRC/56/26, 14 June 2024, para. 9: https://docs.un.org/en/A/HRC/56/26. For the hostages, A/79/232, para. 73: https://documents.un.org/api/symbol/access?j=N2426279&t=pdf.

[85] Report, para. 1.

international humanitarian law and all alleged violations and abuses of international human rights law", and its Terms of Reference explain that "abuses" refers to "actions committed by non-state entities or their members".[86] Hamas is such an entity, and four months before this Report the Commission itself found that Hamas had murdered Palestinians in Gaza (Part Six A). A report that sets out to identify the "drivers" of violence and the "root causes of recurrent tensions", while ignoring, first, the deliberate killing of Israeli civilians by Hamas and the doctrine behind it and, second, the continued support for terrorism by the Palestinian Authority, cannot hope to answer the question it set itself.[87]

J. Casualty figures without source or distinction

60. Paragraph 11 sources its figures to three pages of the UN Office for the Coordination of Humanitarian Affairs ("OCHA").[88] For Gaza, those figures are the Hamas-run Ministry of Health's, and the Ministry's records "do not differentiate between civilians and combatants".[89] Nor does the Report consider how many Palestinians were killed by Palestinian rockets that fell short on Gaza. By 18 October 2023 the Israel Defense Forces ("IDF") had already detected 450 such rockets, and stated that "Rockets have been causing harm to Gazan civilians, in addition to Israeli civilians".[90] By October 2026 Israel said that the rockets that had "misfired and landed in the Strip" numbered "in the thousands at minimum".[91] The best-known case is the explosion at the al-Ahli Arab Hospital on 17 October 2023. The Ministry of Health said that Israel was responsible and that 471 people had been killed.[92] The Israel Defense Forces found that the explosion was caused by a rocket misfired by Islamic Jihad.[93] The United States Government assessed that "Israel is not responsible for the explosion", and the British Government said that it "was likely caused by a missile – or part of one – that was launched from within Gaza towards Israel".[94] The United States intelligence community put the toll at the "low end of the 100-to-300 spectrum", and Human Rights Watch, which found that

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[86] Human Rights Council resolution S-30/1, 27 May 2021, para. 1, as quoted by the Commission: https://www.ohchr.org/en/hr-bodies/hrc/co-israel/index; Terms of Reference (note 1 above), section II ("Mandate").

[87] Report, para. 1.

[88] Report, para. 11 and its footnote 7, citing https://www.ochaopt.org/data/casualties and two OCHA reports of 2 October 2026 and 30 September 2026.

[89] Times of Israel, 29 January 2026: https://www.timesofisrael.com/idf-believes-70000-gazans-killed-in-war-as-claimed-by-hamas/.

[90] Tazpit Press Service, 18 October 2023, reporting the IDF: https://tps.co.il/articles/israel-at-least-450-terror-rockets-fell-short-in-gaza/.

[91] E. Fabian, "3 years of war: Data shows IDF hit 100,000 targets as 31,500 projectiles fired at Israel", Times of Israel, 7 October 2026: https://www.timesofisrael.com/3-years-of-war-data-shows-idf-hit-100000-targets-as-31500-projectiles-fired-at-israel/.

[92] Human Rights Watch, "Gaza: Findings on October 17 al-Ahli Hospital Explosion", 26 November 2023 ("The Ministry of Health in Gaza said Israel was responsible for the explosion"; "The Ministry of Health in Gaza reported that 471 people were killed and 342 injured"): https://www.hrw.org/news/2023/11/26/gaza-findings-al-ahli-hospital-explosion.

[93] Israel Defense Forces, "Gaza Hospital Blast: Initial IDF Al-Ahli Report", 18 October 2023 ("the Islamic Jihad was responsible for the Gaza hospital blast"; "Hamas intentionally inflated the body count"): https://m.www.idf.il/en/mini-sites/israel-at-war/all-articles/al-ahli-al-maamadani-hospital-initial-idf-aftermath-report-october-18-2023/.

[94] Statement of the National Security Council spokesperson, 18 October 2023, as reported by Voice of America: https://www.globalsecurity.org/military/library/news/2023/10/mil-231018-voa01.htm; Prime Minister's statement to the House of Commons, 23 October 2023: https://www.gov.uk/government/speeches/pm-statement-to-the-house-of-commons-on-the-latest-situation-in-israel-and-gaza-23-october-2023.

the explosion "resulted from an apparent rocket-propelled munition, such as those commonly used by Palestinian armed groups", was "unable to corroborate" the Ministry's count, "which is significantly higher than other estimates, displays an unusually high killed-to-injured ratio, and appears out of proportion with the damage visible on site".[95] Before the ceasefire of October 2025, the Israel Defense Forces stated that they had killed "at least 22,000 combatants" in Gaza, in addition to some 1,600 terrorists killed inside Israel during the onslaught of 7 October 2023.[96] The Report mentions none of this.

61. The placement of the figures compounds the omission. They follow immediately after the claim that soldiers target Palestinians "whether or not they pose a real or immediate threat", inviting the reader to treat every death as an instance of that practice. The figure for Judea and Samaria likewise includes armed men killed in military operations; the Commission's own August 2025 report records that in those operations "Palestinian armed groups responded with M16 assault rifles and improvised explosive devices placed on access routes".[97]

K. Conclusion

62. The introduction and the first section of the Report are meant to explain why Israeli soldiers act as the Commission says they do. They do not. The history they offer is unsourced, omits the Arab rejection of partition and the Arab invasion, and treats Israel's survival as evidence of guilt. The bridge from 1948 to the present consists of one quotation and a misdescription of Israel's position on statehood. The conclusion that soldiers target Palestinians regardless of any threat rests on no evidence identified in the text. The inverted history presented is used as a substitute for evidence. And all of it is offered under a standard of proof that, by the Commission's own account of the law, cannot support the findings the Report goes on to make.

Part Three: Half a Sentence

63. On 7 December 2025 the Israeli Chief of the General Staff, Lieutenant General Eyal Zamir, told reserve troops in Gaza: "We will not allow Hamas to reestablish itself. We have operational control over extensive parts of the Gaza Strip and we will remain on those defence lines". He went on to call the Yellow Line "a new border line", one "serving as a forward defensive line for our communities and a line of operational activity".[98]

64. The Commission cites that statement. What it reports is this: "The Chief of Staff Eyal Zamir has described the line as Israel's 'new border'".[99] The purpose Zamir gave, a forward defensive line for the Israeli communities that Hamas and other armed groups attacked from Gaza on 7 October 2023, is cut away. What remains is offered as evidence

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[95] Agence France-Presse, 20 October 2023, reporting the unclassified United States intelligence assessment: https://www.malaymail.com/news/world/2023/10/20/us-intelligence-estimates-100-to-300-killed-in-gaza-hospital-strike/97305; Human Rights Watch, 26 November 2023 (note 92 above).

[96] See note 89 above.

[97] A/80/337, para. 41: https://docs.un.org/en/A/80/337.

[98] IDF, "The Chief of the General Staff to the Reserve Troops in the Gaza Strip", 7 December 2025: https://www.idf.il/en/mini-sites/idf-press-releases-israel-at-war/december-25-pr/the-chief-of-the-general-staff-to-the-reserve-troops-in-the-gaza-strip/. This is the page cited at footnote 45 of the Report.

[99] Report, para. 37.

that Israel is engaged in "territorial expansion".[100] This is the first of a pattern. The Report repeatedly takes the words of Israeli officials, removes the half of the sentence that explains them, and presents the remainder as an admission.

65. The distortions take three forms. Some quotations are accurate but stripped of the words that give them their meaning. Some are paired with an inference the words do not support. Some are presented without the event that prompted them. Each is a failure of the first duty of a fact-finder, which is to report what a source says. Repeated across case after case, and always in the same direction, they cannot be put down to carelessness.

A. "Gripping Hamas"

66. The Report asserts that on 28 May 2026 Prime Minister Netanyahu "stated that he had instructed Israeli forces to seize 70 percent of Gaza, indicating that territorial expansion will continue".[101] The video the Report cites records what he actually said: "We will still need to crush Hezbollah. We are currently gripping Hamas, yes? We are now at 60% of the territory of the Strip, you know that. We were at 50? We moved to 60? My directive is to move to..? Go in order. First of all, 70. Let's start with that. Gripping them from every side. We will still deal with the remnants".[102]

67. The subject of the passage is Hamas: gripping it, from every side, and dealing with its remnants. That Israeli forces came to control more of Gaza is not in dispute; the Report says so itself. What is in dispute is the purpose. The Report presents a statement of military pressure on a terrorist organisation as evidence of territorial ambition. The speaker said nothing of the kind.

B. "Killing like we haven't since 1967"

68. Paragraph 18 relies on Major General Avi Bluth, head of Central Command, who "reportedly stated in May 2026 that Israeli soldiers are 'killing like we haven't since 1967'".[103] The words are offered as evidence that soldiers kill Palestinians whether or not they pose a threat.

69. The article the Report cites gives the sentence in full. Bluth said: "We've killed 1,500 terrorists in three years. So, how come there is no intifada? … Because 96 percent of the 1,500 killed were involved in terrorism, only 4 percent were not." And: "Of those 1,500 who were killed, 70 percent were carrying arms. The Arabs understand that 'If someone comes to kill you, kill them first' is the norm in the Middle East, so we're killing like we haven't killed since 1967".[104] The statement the Report uses to show the killing of people who posed no threat is, in its own source, a statement that seven in ten of those killed were armed.

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[100] Report, para. 37.

[101] See note 99 above.

[102] Video clip cited at footnote 42 of the Report (https://www.instagram.com/reels/DZAkyq-CFoT/): an interview of Prime Minister Netanyahu by Yehonatan Adiri at the leadership conference of the Ein Prat midrasha in the Jordan Valley, May 2026. Hebrew transcript of the clip on file; translation ours. Only the clip cited by the Commission has been reviewed, not the full interview.

[103] Report, para. 18.

[104] J. Breiner, "West Bank IDF Chief Admits Unequal Rules for Shooting Palestinians and Jews, Citing 'Societal Consequences'", Haaretz, 4 May 2026: https://www.haaretz.com/israel-news/israel-security/2026-05-04/ty-article/.premium/west-bank-idf-chief-defends-differing-open-fire-policies-for-palestinians-jews/0000019d-ef42-dd9a-a79d-efebfd2f0000. This is the article cited at footnote 19 of the Report. The remarks were made in a closed forum, as reported.

C. "The new Nazis"

70. Paragraph 20 sets two statements by Minister Bezalel Smotrich side by side. The first statement, from November 2023, is that there are "two million Nazis" in Judea and Samaria; the Report records that he was referring to a poll showing that most Palestinians there supported the attack of 7 October.[105]

71. The second statement, from November 2024, is that "the new Nazis have to pay a price in the territory that will be taken from them forever both in Gaza and in Judea and Samaria".[106] Just before this sentence, which the Report quotes, Smotrich spoke of "all the Nazis along the entire axis, from Iran, Hezbollah, Yemen, to what is left of Hamas's terrorists in Gaza and the terrorists in Judea and Samaria".[107] On his own words, the "Nazis" in Judea and Samaria are its terrorists, not its population. Press reports which the Commission cites reflect this: the *Times of Israel* places the sentence in a passage about "Israel's enemies", who saw 7 October as "the first step in [its] destruction", and *Al-Monitor*, having quoted it, adds that he was "presumably referring to Hamas".[108] The Commission's Report gives neither the original text nor its paraphrasing in the press reports. Instead, by setting the 2024 sentence beside the 2023 one, it implies that the "new Nazis" are the two million Palestinians of Judea and Samaria, when Smotrich had named the terrorists.

D. "Must look like Jabalia"

72. Paragraph 20 also quotes an *X* post by Smotrich on 6 January 2025: "Fondouk, Nablus, and Jenin [in the West Bank] must look like Jabalia [in Gaza]". The post itself reads: "The terror in Judea and Samaria and the terror from Gaza and Iran is the same terror, and it must be defeated. Whoever relies on the Palestinian Authority to protect the security of Israel's citizens wakes up to a morning on which terrorists again slaughter Jewish residents. Funduq, Nablus and Jenin must look like Jabalia so that Kfar Saba does not, God forbid, become Kfar Aza". It ends by demanding a cabinet meeting on "the real eradication of terror in Judea and Samaria".[109]

73. That morning, terrorists had opened fire on a bus and vehicles in the village of Al-Funduq, killing two women in their sixties and a man in his forties.[110] The Report omits the attack, omits that the post was a reaction to it, omits that its subject is terror, and omits its stated purpose: that an Israeli town should not suffer what Kfar Aza suffered on 7 October. The post is also, on its face, a call on the Government to change course: it demands a cabinet meeting. A minister's call for a policy is evidence of what he wanted, not of what the State did. This is not a misreading but an inversion. A minister's attack on the Government's policy, and his demand that it changes, become in the

[105] Report, para. 20 and footnote 21, citing the Times of Israel: https://www.timesofisrael.com/there-are-2-million-nazis-in-west-bank-says-far-right-finance-minister-smotrich/.
[106] Report, para. 20.
[107] Makor Rishon, 11 November 2024 (Hebrew; translation ours): https://www.makorrishon.co.il/news/795730/.
[108] S. Sokol, Times of Israel, 11 November 2024: https://www.timesofisrael.com/smotrich-says-trumps-victory-an-opportunity-to-apply-sovereignty-in-the-west-bank/; R. Carroll, "Israel's Smotrich calls for annexation of occupied West Bank: What we know", Al-Monitor, 11 November 2024: https://www.al-monitor.com/originals/2024/11/israels-smotrich-calls-annexation-occupied-west-bank-what-we-know. Both are cited at footnote 22 of the Report.
[109] Post by Minister Smotrich on X, 6 January 2025: https://x.com/bezalelsm/status/1876184590206844987, cited at footnote 23 of the Report. Translation ours.
[110] TPS, 6 January 2025: https://tps.co.il/articles/3-killed-7-injured-israel-security-pursuing-terrorists/.

Commission's hands proof of the very policy he says the Government has failed to adopt. Evidence against the Commission's case is presented as evidence for it.

E. A contradiction that does not exist

74. The Report states that its findings on Gaza after the ceasefire "contradict the report by the Board of Peace to the Security Council in May this year … which claimed that the ceasefire has largely held, bringing 'enormous relief to the civilian populations'".[111] The Board of Peace said that the ceasefire "has held despite considerable challenges and violations", that "violations continue to occur on a near daily basis, some of which are serious", and that "the principal obstacle to full implementation remains Hamas' refusal to accept verified decommissioning". The relief it described followed the ceasefire, the return of all the hostages and the restoration of humanitarian assistance.[112] The Board recorded the cost of the violations, "civilians killed" among them, and still found that the ceasefire had held.[113] There is no contradiction. There is only a quotation stripped of everything that would have told the reader so.

F. The pattern

75. Other examples follow the same method. The Knesset resolution of July 2024, which grounded opposition to a Palestinian state in the massacre of 7 October and the risk that Hamas would turn such a state into "a radical Islamic terrorist base", is presented without those reasons (Part Two, section G).[114] The Commission's own 2024 observation that integrating artificial intelligence into military decision-making "may not by itself inherently indicate a breach of international humanitarian law" is dropped, leaving only the concerns that followed it, and a media report on the "Lavender" system that the Commission said it "was unable to verify" becomes a statement of fact.[115] In each case the omitted words are the ones that explain the statement. In each case they are found in the very source the Commission cites. Where the Commission does reach for new support, it is thin: its concern that the "probabilistic outputs, speed, and automated bias" of such weapons "conflict with core legal duties to protect civilians" rests on a single blog post.[116]

Part Four: The Commission as Its Own Witness

76. In September 2024 the Commission reported the account of one detainee held in the Negev prison ("the Negev prison account"): "When he refused, he was beaten and his genitals were kicked so severely that he vomited and lost consciousness".[117] In March 2025 the same account appeared, almost word for word and without attribution, in a further paper, which added a sentence of its own: "The Commission verified four such

[111] Report, para. 33.

[112] Board of Peace, first six-month report on Gaza, May 2026, paras. 3, 5 and 7: https://israeled.org/wp-content/uploads/2026/05/Board-of-Peace-first-6-month-report-on-Gaza-May-2026.pdf. The Report cites the UN Digital Library copy (footnote 40).

[113] Board of Peace, first six-month report on Gaza (note 112 above).

[114] See note 77 above.

[115] A/HRC/56/CRP.4, paras. 162 and 163: https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session56/a-hrc-56-crp-4.pdf.

[116] Report, para. 16, footnote 17, citing Opinio Juris, 17 July 2026: https://opiniojuris.org/2026/07/17/ai-enabled-targeting-and-the-structural-strain-on-international-humanitarian-law/.

[117] A/79/232, para. 64: https://documents.un.org/api/symbol/access?j=N2426279&t=pdf.

cases".[118] In September 2025 the account appeared in a third paper of the Commission, citing the first.[119] Three paragraphs later that paper concluded: "The Commission therefore finds that the widespread use of sexual and gender-based violence against Palestinians in Gaza indicates the intent to destroy Palestinians as a group".[120] The present Report restates that curious conclusion, citing the September 2025 paper, and goes further: acts of sexual violence, it finds, "continue to be a part of a pattern to destroy the Palestinian as a group in Gaza".[121]

77. Nothing was added to corroborate the Negev prison account along the way. The March 2025 paper added a bare statement that "four such cases" were verified, with no word on how, another detainee's account of a different alleged incident, and a note that B'Tselem and Healthcare Workers Watch had reported unspecified similar accounts.[122] The so called "widespread" violence from which the paper in September 2025 inferred genocidal intent was described there by reference to the Commission's own earlier papers, including the "more than 20 cases" allegedly documented in the Commission's own report of September 2024, the report in which the Negev prison account first appeared.[123] Nothing shows that the Negev prison account was ever re-examined. It was re-used, each time as the Commission's own documentation, until it stood as an example of the conduct from which genocidal intent was inferred; and that finding of intent is now a "previous finding" on which this Report builds.[124] The Commission is its own most frequently cited "witness".

A. Qualifiers that harden on repetition

78. The same process can be traced in the language of the Commission's "findings". Each time a finding is repeated, a qualification falls away.

- **"Expel" inserted.** The September 2025 paper found that sexual violence in Gaza was used "to fracture, humiliate and subjugate the Palestinian population in its entirety".[125] The present Report cites that finding, about Gaza, as its only source for a finding about Judea and Samaria, that sexual violence by soldiers "and settlers" is used "to fracture, expel, humiliate and subjugate the Palestinian population in its entirety". Not only does the Report add what its source does not say (the settlers, and the word "expel" that its displacement thesis needs), it also rests a finding about one territory on a finding about another.[126] There have been no Israeli settlers in Gaza since 2005.
- **"Arguably" becomes "directly and causally linked".** In 2024 the Commission said that statements by Israeli officials "arguably reflect" Government policy and "may

[118] A/HRC/58/CRP.6, para. 118: https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session58/a-hrc-58-crp-6.pdf.
[119] A/HRC/60/CRP.3, para. 210, citing A/79/232, para. 64: https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session60/advance-version/a-hrc-60-crp-3.pdf.
[120] A/HRC/60/CRP.3, para. 213.
[121] Report, paras. 13 (footnote 12) and 56.
[122] A/HRC/58/CRP.6, para. 118.
[123] A/HRC/60/CRP.3, paras. 65, 66 and 209.
[124] Report, para. 12, under the heading "Previous findings of the Commission".
[125] A/HRC/60/CRP.3, para. 213.
[126] Report, para. 44.

have a causal connection" to violations.[127] In 2025, citing that paragraph, it found abuse in detention "directly and causally linked to statements made by Israeli officials".[128]

- **"Unable to verify" becomes fact.** The Commission said in 2024 that it could not verify the media report on the Lavender system.[129] This Report now states that the Commission "has previously reported on the Israeli forces' use of" Lavender, when what it reported was an unverified claim .[130] In 2024 the Commission could not verify the claim. In 2026 it tells the reader it had reported it as fact.

B. Toddlers and snipers

79. The September 2025 paper states: "Some children, including toddlers, were shot in the head by snipers".[131] The only source it cites is two paragraphs of an earlier Commission paper.[132] One of these paragraphs reports a mother, interviewed in a video, saying that her five-year-old daughter was shot in the head by soldiers; it does not mention a sniper or a toddler.[133] The other concerns a young man, Ahmed, "shot in the head and killed, allegedly by ISF", and adds: "However, according to a CNN report, Ahmed was shot in the head and was already dead when the video was shot".[134] Partly on that foundation, the September 2025 paper concluded that the targeting of children was part of an intent to destroy, and the present Report cites that conclusion as established.[135]

C. A comparison of demonstrations, before 7 October

80. The persecution finding in this Report depends on the claim that Israel applies the rules of armed conflict to law enforcement in Judea and Samaria, on discriminatory lines. Follow that claim back and it ends in two paragraphs of a report dated 5 September 2023, a month before 7 October. One paragraph finds that "Israel is increasingly applying the framework governing conduct of hostilities to its law enforcement operations, including to the suppression of peaceful demonstrations".[136] The other, the only place in that report where force used against Palestinians is compared with force used against Jews, is about the dispersal of demonstrations, and compares Palestinians in Judea and Samaria with Jewish demonstrators "inside Israel".[137] That comparison sets Israelis inside Israel against non-Israelis in Judea and Samaria. It cannot show that the line is drawn between Jews and Arabs: Arab citizens of Israel, who demonstrate inside Israel under the same law as Jewish citizens, do not feature in it. In doing so the Report misrepresents the distinction between Israeli citizens (Jews and Arabs) and non-Israeli citizens as though it were a distinction based upon race. This is false. The Report cites the 2023 report for this finding twice,[138] and a third time through the Commission's 2026 paper on children,

[127] A/HRC/56/CRP.4, para. 26.
[128] A/HRC/58/CRP.6, para. 153 (footnote 93, citing A/HRC/56/CRP.4, paras. 26 and 33 to 44).
[129] See note 115 above.
[130] Report, para. 15.
[131] A/HRC/60/CRP.3, para. 215.
[132] A/HRC/60/CRP.3, footnote 455, citing A/HRC/56/CRP.4, paras. 130 and 213.
[133] A/HRC/56/CRP.4, para. 130.
[134] A/HRC/56/CRP.4, para. 213.
[135] A/HRC/60/CRP.3, para. 219; Report, para. 13 and footnote 11.
[136] A/78/198, para. 69 (dated 5 September 2023): https://docs.un.org/en/A/78/198.
[137] A/78/198, para. 68.
[138] Report, paras. 14 (footnote 13) and 50 (footnote 54).

which simply repeats the 2023 finding "as previously reported by the Commission".[139] A comparison of how demonstrations were policed before the war is made to carry a finding of persecution about the conduct of the war.

D. A negative proved by assertion

81. To show that soldiers are "relatively well protected against the threat of stone throwing", the Commission's children paper relies on this: "As the Commission reported in September 2023 (A/78/198), the Commission till date is not aware of a single Israeli security forces soldier being killed as a result of stone-throwing".[140] The 2023 report sources the same statement to nothing at all: "The Commission is not aware of a single Israeli security forces soldier being killed as a result of stone-throwing".[141] The Commission's unawareness, stated in 2023, is cited in 2026 as evidence. It was wrong when it was first stated: in May 2020 an Israeli soldier, Amit Ben-Yigal, aged 21, was killed by a rock thrown at his head from a rooftop during an arrest operation in Ya'bad, near Jenin.[142] The killing was widely reported at the time. A single search would have found it. The Commission either did not look or did not want to find it.

E. The scale

82. These are not isolated lapses. About 150 of the roughly 490 footnotes in the Commission's September 2025 paper and about 135 of the roughly 560 footnotes in its paper on children cite the Commission's own earlier documents.[143] The present Report cites the Commission's own earlier documents in 42 footnotes, and gives a paragraph number in only three of them. Of the 22 paragraphs it does identify, 19 carry no footnote at all. When this Report speaks of the Commission's "previous findings", it is, for the most part, citing the Commission's previous assertions.[144]

F. One source under several names

83. The Report's figures for the dead in Gaza come from one source: the Hamas-run Ministry of Health, whose records do not separate fighters from civilians (Part Two J). The Report never says how many of the dead were fighters, and presents the whole count as the toll of "Israeli state violence" (paragraph 59). The figures reach the Report through United Nations documents, and at each step something falls away: first the caveats and the attribution, then the source itself. By the time they reach this Report, they are the Commission's own, and treated as evidence of genocide.

    - **The attribution falls away.** Paragraph 11 of the Report states the figures for Gaza as fact in the Commission's own voice, beside those for Judea and Samaria and from the same footnote, as though they stood on the same footing. They do not, and the three OCHA pages it cites say so. OCHA's casualty database enters casualties "following review and verification", and leaves out those from the hostilities in Gaza until they

[139] Report, para. 53 (footnote 56), citing A/HRC/62/CRP.2, para. 318 and footnote 409: https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session62/a-hrc-62-crp-2.pdf.

[140] A/HRC/62/CRP.2, para. 96 and footnote 97.

[141] A/78/198, para. 19, footnote 42.

[142] Reuters, as published by the Algemeiner, 12 May 2020: https://www.algemeiner.com/2020/05/12/israeli-soldier-killed-by-rock-thrown-during-west-bank-arrest-op/.

[143] Counts are approximate, made by reviewing the footnotes of A/HRC/60/CRP.3 and A/HRC/62/CRP.2.

[144] Report, para. 12, under the heading "Previous findings of the Commission".

"have been independently verified".[145] OCHA's other two pages attribute the Gaza figures to the Gaza Health Ministry ("according to MoH") which "operates under the de facto authorities", that is, under Hamas,[146] and warn that "Figures that are yet-to-be verified by the UN are attributed to their source".[147] Even OCHA will not vouch for the Gaza Health Ministry's figures. The Commission, which says nothing of having checked them, adopts them as its own.

- **One source, three citations.** Paragraph 34 of the Report gives three sources for the 104 dead of 28 and 29 October 2025 in Gaza: the Gaza Health Ministry's own Facebook post, an OCHA situation report and a press release of the High Commissioner for Human Rights. That looks like corroboration. It is not: OCHA repeats the Ministry's figure and says so, and the High Commissioner gives no source at all.[148] Nor does the Report say whose ministry it is. It is described as "the Palestinian Ministry of Health", without mentioning that it is the ministry in Gaza that answers to Hamas. Part Five A shows what kind of count it is.
- **The figure hardens.** In paragraph 59 the figures return with no footnote at all, as "Over 75,000 Palestinians" killed in Gaza and in Judea and Samaria, in the paragraph that finds that Israeli authorities and security forces "continue to commit genocide in Gaza". The Commission's paper on children, on which the Report relies for its conclusions about children (paragraph 13), does the same to its count of children. In the body of that paper, they were killed "as a direct result of the hostilities in Gaza", on figures taken from OCHA, which gives them as "MoH's breakdowns", and from the Ministry's own Telegram channel, in a document titled "Two Years of Genocidal War & Gaza Still Bleeds".[149] In its summary, they were killed "by the Israeli security

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[145] Office for the Coordination of Humanitarian Affairs (OCHA), "Data on casualties", cited at the Report's footnote 7: https://www.ochaopt.org/data/casualties (casualty information is "… entered into OCHA's Protection of Civilians database, following review and verification".; "Casualties in the context of the ongoing hostilities in the Gaza Strip and Israel, which started on 7 October 2023, will only be added to this page once these incidents have been independently verified".).

[146] OCHA, "Humanitarian Situation Report | 2 October 2026" (published 5 October 2026), cited at the Report's footnote 7: https://www.ochaopt.org/content/humanitarian-situation-report-2-october-2026; ("These figures bring the overall reported casualty toll since the announcement of a ceasefire agreement on 10 October 2025 to 1,431 fatalities and 5,026 injuries, according to MoH".; "According to the Ministry of Health in Gaza, which operates under the de facto authorities, 29 Palestinians were reported killed …"; "Another 81 fatalities were retroactively added to the total number after their identification details were approved by MoH".).

[147] OCHA, "Reported impact snapshot | Gaza Strip (30 September 2026)" (published 6 October 2026), cited at the Report's footnote 7: https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-30-september-2026 ("The fatality breakdowns currently cited are those that the MoH in Gaza has fully identified as of 31 December 2025 out of the higher number of casualties they report".).

[148] Report, para. 34 and footnote 37; OCHA, "Gaza Humanitarian Response | Situation Report No. 7", 28 October 2025: https://www.ochaopt.org/content/gaza-humanitarian-response-situation-report-no-7 ("According to the latest update by the Ministry of Health as of the morning of 29 October (11:26 local time), over 100 Palestinians, including women and children, have been killed and over 250 injured in the airstrikes".); Office of the High Commissioner for Human Rights (OHCHR), "UN human rights chief says appalled by deadly Gaza strikes", 29 October 2025: https://www.ohchr.org/en/press-releases/2025/10/un-human-rights-chief-says-appalled-deadly-gaza-strikes ("Reports that over 100 Palestinians were killed overnight in a wave of Israeli airstrikes mainly on residential buildings, IDP tents and schools across the Gaza strip, following the death of an Israeli soldier, are appalling".). The press release names no source for the figure.

[149] A/HRC/62/CRP.2, para. 26 and footnote 29, citing OCHA, "Humanitarian Situation Update #329 | Gaza Strip", 9 October 2025: https://www.ochaopt.org/content/humanitarian-situation-update-329-gaza-strip ("MoH's breakdowns, published on 7 October 2025, indicate that among the fatalities were 20,179 children (30 per cent) …") and a document posted on the Ministry's Telegram channel, "Palestinian Ministry of Health / Gaza", as "Two Years of Genocidal War & Gaza Still Bleeds- English.pdf".

forces".[150] A count that does not say who killed the children has become a count of children killed by Israel. The September 2025 paper, too, states the Ministry's total in its own voice, citing OCHA, which took it from "a list of its records" published by the Ministry.[151] Attributed, then unattributed, then unsourced: a count kept by Hamas ends as evidence of genocide. The pattern is not confined to the count of the dead.

- **"Famine".** The genocide finding that the Report repeats includes the act of "deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part".[152] For that act the September 2025 paper relied on the Integrated Food Security Phase Classification (IPC), and in particular on the report of its Famine Review Committee of 22 August 2025.[153] That report listed among its sources the Gaza Health Ministry's "mortality reports" and its reports of "deaths due to malnutrition", giving for the latter the address of the Ministry's Telegram channel and for the former a website of the Tech For Palestine collective. It records that "By 15th August, the MoH had reported 240 deaths that they officially attributed to starvation, malnutrition or famine".[154] Israel's Ministry of Foreign Affairs stated the same day that "The entire IPC document is based on Hamas lies laundered through organizations with vested interests".[155] An Israeli military official has since said that the Ministry's malnutrition figures are "manipulated by Hamas to include individuals with underlying severe health issues".[156] The September 2025 paper mentions neither that response nor the detailed review of the Committee's methods that COGAT and Israel's Foreign Ministry issued five days before the paper was published, which concluded that "The malnutrition criteria for famine declaration

[150] A/HRC/62/CRP.2, summary ("by the Israeli security forces since 7 October 2023 resulting in the death of at least 20,179 and injury of 44,143 children").

[151] A/HRC/60/CRP.3, paras. 20 and 214 and footnotes 30 and 451, citing OCHA, "Humanitarian Situation Update #311 | Gaza Strip", 6 August 2025: https://www.ochaopt.org/content/humanitarian-situation-update-311-gaza-strip ("On 4 August, the MoH in Gaza published a list of its records of 60,199 Palestinian fatalities in the Gaza Strip between 7 October 2023 and 31 July 2025 …").

[152] Report, para. 54 and footnote 58, citing A/HRC/60/CRP.3.

[153] A/HRC/60/CRP.3, paras. 124 and 197 and footnotes 305 to 308 and 433.

[154] Integrated Food Security Phase Classification, "Famine Review Committee: Gaza Strip, August 2025", published 22 August 2025, section 3.4: https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_Famine_Review_Committee_Report_Gaza_Aug2025.pdf ("Ministry of Health (MoH) mortality reports – violent deaths, usually reported daily and available at https://data.techforpalestine.org/"; "Ministry of Health reports – deaths due to malnutrition, usually reported daily from July 2025 onwards", followed by the address of the Ministry's Telegram channel; "By 15th August, the MoH had reported 240 deaths that they officially attributed to starvation, malnutrition or famine, including 107 children and 133 adults".). The Tech For Palestine website describes itself as maintaining "open datasets documenting the human toll of the genocide in Palestine": https://data.techforpalestine.org/.

[155] Israel Ministry of Foreign Affairs, "MFA response to IPC report", 22 August 2025: https://www.gov.il/en/pages/mfa-response-to-ipc-report-22-aug-2025; Israel Hayom, 22 August 2025: https://www.israelhayom.com/2025/08/22/fabricated-tailor-made-israel-destroys-ipc-report-declaring-gaza-famine, which also reports the statement of the Coordinator of Government Activities in the Territories (COGAT) that "The IPC report is based on partial and unreliable sources, many of them affiliated with Hamas." See also Israel Ministry of Foreign Affairs, "Systematic distortions in the IPC's Gaza report", 11 September 2025, as republished at https://www.globalsecurity.org/military/library/news/2025/09/mil-250911-israel-mfa01.htm. On the IPC's earlier reports on Gaza, see UKLFI Charitable Trust, "Review of Reports of Famine in Gaza", February 2025: https://www.uklfi.com/wp-content/uploads/2025/02/Review-of-Famine-Reports-Final-14-2-25.pdf, and its Executive Summary: https://www.uklfi.com/wp-content/uploads/2025/01/Executive-Summary-Glossaries-and-Acronyms-27-1-25-final.pdf.

[156] See note 89 above.

was almost certainly unfulfilled".[157] The present Report adopts the genocide finding a year later and adds that Israel "continue[s] to commit genocidal acts", without mentioning what has happened since: the IPC's own finding, in December 2025, that "famine conditions have since been offset", and a survey published by UNICEF in 2026 that found "relatively low acute malnutrition among children in the accessible population".[158]

- **Mass graves.** Among the papers whose findings, according to the present Report, amount to "genocide, crimes against humanity and war crimes" is the Commission's report of September 2024 (A/79/232)[159] that stated: "According to the Media Office of the de facto authorities in Gaza, more than 500 bodies were found in mass graves located on hospital grounds, including at Shifa' and Nasr hospitals", and adds that the de facto authorities "have said that several bodies were found undressed and handcuffed, indicating that the victims might have been executed".[160] The Israel Defense Forces stated that "The claim that the IDF … buried Palestinian bodies is baseless and unfounded", and that bodies examined in the search for hostages "were returned to their place".[161] The Commission recorded the denial. The account it gave first, and the suggestion of execution, were those of the Hamas authorities.
- **The Ministry's own channels.** The earlier papers that the Report cites contain twenty footnotes that in turn cite the Hamas-run Ministry's Telegram channel or its Facebook page directly: for the numbers killed and injured; for the proportion of women and girls among the dead; for the number of children orphaned; for deaths attributed to a lack of infant formula; for the number of medical staff killed; and for the declaration of a risk of polio.[162] The Commission's paper on the first months of the war also gives, "according to the Gaza Media Office", the number of bombs dropped on Gaza in the first 89 days.[163] A United Nations document that rests on such sources lends them its name, and every later document that cites it does so again.

84. All these show that the Commission has taken the figures of one party to the conflict, the same Ministry that falsely blamed Israel for the explosion at the al-Ahli hospital (Part

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[157] Times of Israel, 11 September 2025, reporting the review issued by COGAT and the Ministry of Foreign Affairs: https://www.timesofisrael.com/israeli-review-disputes-un-backed-gaza-famine-report-as-biased-methodologically-flawed.

[158] Report, para. 54; OCHA, "Gaza: IPC analysis finds famine conditions offset but situation remains critical", 19 December 2025: https://www.un.org/unispal/document/gaza-ipc-analysis-finds-famine-conditions-offset-but-situation-remains-critical-ocha/; Gaza SMART Survey 2026, Executive Summary (fieldwork 31 May to 15 June 2026, in the accessible areas, home to about 83 percent of the population; the survey states that it cannot confirm or disprove past assessments): https://www.unicef.org/sop/media/6801/file/Gaza%20Smart%20Survey%20-%20Executive%20Summary.pdf.pdf.

[159] Report, para. 12 and footnote 8, which lists A/79/232 among the documents containing those findings.

[160] A/79/232 (11 September 2024), para. 22. The paragraph carries no footnote.

[161] Agence France-Presse, 24 April 2024, quoting the Israel Defense Forces: https://www.malaymail.com/news/world/2024/04/24/israel-army-denies-burying-bodies-in-gaza-hospital-in-hostage-search/130438. The same report attributes the claim of "mass graves" to the head of the Hamas Government Media Office.

[162] A/HRC/56/26, footnotes 27, 28, 58 and 62; A/HRC/56/CRP.4, footnotes 23, 24, 32, 346 and 400; A/79/232, footnote 9; A/HRC/58/CRP.6, footnotes 36 and 37; A/HRC/60/CRP.3, footnotes 108 and 337; A/HRC/62/CRP.2, footnotes 29, 31, 32, 242, 264 and 265. Each cites the Ministry's Telegram channel (t.me/MOHMediaGaza) or its Facebook page (facebook.com/MOHGaza1994).

[163] A/HRC/56/CRP.4, para. 76 ("An estimated 45,000 bombs were dropped by air during the first 89 days of hostilities, according to the Gaza Media Office."). The same paragraph attributes to "Gaza's Media Office of the Hamas authorities" the claim that some 32,000 tons of explosives had been dropped by 10 November 2023.

Two J), and given them the authority of the United Nations, when the United Nations bodies it relies on would not. A figure that has passed through three United Nations documents is still the figure of the body that produced it. Repetition is not verification.

G. Whose findings?

85. Most of the earlier findings this Report incorporates, those of the September 2025 paper among them, were made by a Commission chaired by Navi Pillay, with Miloon Kothari and Chris Sidoti as its other members.[164] Paragraph 2 of the present Report asks that it be read "in conjunction with the Commission's previous reports and conference room papers", and records that the Commission applied "the same methodology and standard of proof previously adopted for its investigations". Mr Sidoti was reappointed in November 2025 and is a member of the Commission that issued this Report.[165]

86. Before her appointment, Ms Pillay was among the signatories of a statement published on 17 June 2020 calling for "targeted sanctions on Israel" and "a military embargo".[166] In July 2022, while a member of the Commission, Mr. Kothari said in an interview: "We are very disheartened by the social media that is controlled largely by whether it's the Jewish lobby or it's the specific [nonprofit groups]". In the same interview he said that he would "go as far as to raise the question of why [Israel is] even a member of the United Nations".[167] The governments of the United States, the United Kingdom, France, Germany, Canada, Italy, the Netherlands, Australia and others condemned the remarks, as did the European Union. The United States described them as "outrageous, antisemitic remarks"; Germany said it "deeply deplore[d]" them.[168] Mr Kothari later wrote: "It was completely wrong for me to describe the social media as 'being controlled largely by the Jewish lobby'".[169] In July 2022 Israel's Mission to the United Nations in Geneva recorded that, the month before, Mr. Sidoti, who remains a member of the Commission, had "claimed that some Jews were throwing around accusations of antisemitism 'like rice at a wedding' and in fact legitimising antisemitism against themselves".[170]

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[164] Human Rights Council, "President of Human Rights Council Appoints Members of Commission of Inquiry on the OPT and Israel", press release, 22 July 2021: https://www.un.org/unispal/document/president-of-human-rights-council-appoints-members-of-commission-of-inquiry-on-the-opt-and-israel-press-release/.

[165] Report, para. 2; Office of the High Commissioner for Human Rights, "Human Rights Council President appoints Members of the Commission of Inquiry", 27 November 2025: https://www.ohchr.org/en/press-releases/2025/11/human-rights-council-president-appoints-members-commission-inquiry-occupied.

[166] "250 Prominent South Africans Call for Sanctions to Stop Annexation", 17 June 2020, listing Navi Pillay among the signatories: https://bdsmovement.net/news/250-prominent-south-africans-call-for-sanctions-stop-annexation.

[167] Washington Free Beacon, 27 July 2022, reporting the interview with Mondoweiss (the words in square brackets are the Free Beacon's): https://freebeacon.com/latest-news/un-official-investigating-israel-jewish-lobby-controls-social-media/.

[168] Statements of governments and of the European Union, July 2022, collected at https://unwatch.org/un-investigator-condemned-for-antisemitism-by-uk-france-canada-us/.

[169] Jewish Telegraphic Agency, 5 August 2022 (apology): https://www.jta.org/2022/08/05/israel/un-investigator-apologizes-for-jewish-lobby-remark-and-other-comments-deemed-antisemitic.

[170] Permanent Mission of Israel to the United Nations in Geneva, "Statement regarding the comments made by Miloon Kothari", 27 July 2022, as reproduced by Human Rights Voices: https://hrvoices.org/article/statement-by-the-israel-mission-to-the-u-n-in-geneva-regarding-the-comments-made-by-miloon-kothari-during-a-media-interview-on-the-25th-july-2022/. The next day, the Commission's chair, Ms. Pillay, wrote to the President of the Human Rights Council, "quoting what Commissioner Sidoti actually said at the Human Rights Council": "It seems that accusations of anti-Semitism are thrown around like rice at a wedding. That legitimizes anti-Semitism. Trivialises anti-Semitism. Defiles the memory of the 6 million victims of the Shoah. Frankly, it is an outrage". Letter of 28 July 2022, as reproduced by Human Rights Voices:

87. A commissioner who had publicly called for sanctions against the State under investigation, another who reached for a "Jewish lobby" to explain criticism of the Commission, and a third, still a member, who on Israel's account said that accusations of antisemitism were thrown around "like rice at a wedding", produced most of the "findings" on which this Report now builds. The Report does not re-examine them. It incorporates them by reference.

Part Five: Sources That Say the Opposite

88. This Part reads the Report's sources to the end. Again and again, the document the Commission cites holds the answer to the finding it is cited for: how many of the dead were armed, why a strike was carried out, what warnings civilians were given, which Israelis were killed, and what Israel did to investigate. The Commission had these documents in hand, because it cited them. But it left those passages out.

89. The Report finds that Israel has committed the crime against humanity of extermination in Judea and Samaria. It reaches that finding without asking how many of the Palestinians killed by Israeli forces since 7 October 2023 were armed.[171] One of the sources it cites is the UN Human Rights Office's analysis of those deaths. Of the 968 Palestinians killed by Israeli forces, it found that 449 "were unarmed, and not involved in any violence or confrontation at the time of their killing"; that 174 "were killed while throwing stones or Molotov cocktails"; and that 79 "were killed in attacks and alleged attacks against Israelis, and 247 during exchange of fire with ISF following ISF incursions into Palestinian towns and villages".[172] Even on the UN's own count, then, more than half were killed while throwing stones or firebombs, in attacks or alleged attacks on Israelis, or in exchanges of fire. The figures that would have tested the Commission's finding were in its own footnote, and they were left there.

A. Gaza, 28 and 29 October 2025

90. The Report states that a series of strikes on 28 and 29 October 2025 killed "104 Palestinians, including 46 children and 20 women".[173] Its source is a Facebook post of the Hamas-run Ministry of Health in Gaza, giving "Statistics of what has reached hospitals in the Gaza Strip since the escalation last night until now".[174] It does not say how many of the dead were fighters.

91. The Report's second source for the strikes is the Israeli military's own record of the day. It states that the strikes were carried out "in light of Hamas's blatant violations yesterday", and that they targeted more than 30 terrorists at command levels, among them Nukhba commanders who took part in the 7 October massacre, including the commander

https://hrvoices.org/assets/attachments/documents/Letter_from_Chair_of_the_COI_on_the_OPT.including_East_Jerusalem.and_Israel_to_HRC_President.pdf.

[171] Report, paras. 11, 17 and 47.

[172] UN Human Rights Office in the Occupied Palestinian Territory, "1001 Palestinians killed in West Bank since 7 October 2023 – one in five are children", 17 October 2025: https://www.un.org/unispal/document/ohchr-press-release-17oct25. The Report cites this document at footnote 28.

[173] Report, para. 34.

[174] Post of the Ministry of Health in Gaza on Facebook, 29 October 2025, cited at footnote 37 of the Report: https://www.facebook.com/MOHGaza1994/posts/1147289337576007 (screenshot on file; English translation as displayed by Facebook).

who led the raid on Kibbutz Ein HaShlosha.[175] The day before, an Israeli soldier had been killed in Rafah.[176] The Report mentions none of this. Beyond Israel's listing of two of the Nuseirat dead as Islamic Jihad commanders (below), it says only that "Israeli officials allege that the attacks are in response to ceasefire breaches", that Israel "maintained that every designated site was a 'terrorist target'", and that the Israeli website "listed eight of the dead as members of Hamas and Palestinian Islamic Jihad".[177] A reader of the Report would not learn that the strikes followed the killing of an Israeli soldier, or that, on Israel's account, they were aimed at commanders who took part in the massacre of 7 October.

92. The Report singles out two strikes in Nuseirat on 29 October, which killed nineteen people. On its own account, two of the dead were listed by Israel as a brigade commander and deputy brigade commander of Palestinian Islamic Jihad, and one of the houses appeared on the Israeli map of targeted sites.[178] That describes a strike on a military objective. Whether the expected harm to civilians was excessive is a question of proportionality, which turns on what the commanders knew when they gave the order. The Report does not ask it. Nor does it ask why, on Israel's account, the commanders of an armed group were in residential houses among members of the same family. If Israel's account is right, the Report's complaint that "[m]ost of the targets were within or immediately adjacent to densely populated residential neighborhoods" describes where Hamas and Islamic Jihad chose to operate.[179]

B. The Yellow Line

93. The Report says that a map of the Yellow Line was disseminated "primarily through a QR code", and that the Commission "has not identified any supplementary awareness-raising measures".[180] The post on X which it cites says otherwise. It is a written warning in Arabic, headed "Urgent statement and warning to residents of the Gaza Strip", naming the areas, in the north and in the south, that it is "extremely dangerous" to approach.[181] Six days later the army began marking the line on the ground with concrete barriers and yellow poles 3.5 metres high,[182] and it says that it "makes significant efforts, whenever operationally feasible, to provide advance warnings to the civilian population".[183] The Commission did not have to look far for awareness-raising measures. The first was in the post it cites.

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[175] IDF, war log for 29 October 2025 (Hebrew), the page cited at footnotes 38 and 39 of the Report. Translations ours.

[176] FDD Long War Journal, 29 October 2025: https://www.fdd.org/analysis/2025/10/29/israeli-soldier-killed-in-gaza-attack-idf-responds-with-airstrikes/.

[177] Report, paras. 33 and 34.

[178] Report, para. 35.

[179] Report, para. 34.

[180] Report, para. 38.

[181] Post by the Arabic-language spokesperson of the IDF on X, 14 October 2025: https://x.com/AvichayAdraee/status/1978134175904317709, cited at footnote 43 of the Report. English translation as displayed by x.com.

[182] IDF, "What is the Yellow Line in Gaza?", 20 October 2025: https://m.www.idf.il/en/mini-sites/idf-press-releases-israel-at-war/october-25-pr/what-is-the-yellow-line-in-gaza/; Times of Israel, 17 October 2025: https://www.timesofisrael.com/liveblog_entry/katz-orders-idf-to-place-physical-markers-along-boundary-of-yellow-line-in-gaza/.

[183] Statement of the IDF Spokesperson to ABC News (Australia), 6 July 2026: https://www.abc.net.au/news/2026-07-06/idf-controls-more-gaza-territory-as-israel-yellow-line-moves/106836640.

94. The Report says the "Orange Line", established in March 2026, "further intensified this trend", without saying what it is for.[184] According to COGAT, it marks areas next to the Yellow Line in which humanitarian organisations must coordinate their movements, "with the aim of enabling humanitarian activity while safeguarding personnel in a complex operational environment".[185] The Report also calls the Yellow Line "a steadily encroaching de facto border", without mentioning that, according to the Board of Peace, the principal obstacle to full implementation is Hamas's refusal to disarm (Part Three E).[186]

95. And for its statement that it has investigated the use of lethal force near the Yellow Line, the Report cites a Commission report issued two months before the ceasefire that created the line. That report does not mention it.[187]

C. Operation Iron Wall

96. The Report says that the rule permitting lethal force against those "messing with the ground" was "ostensibly" a response to the planting of improvised explosive devices, and that the operation reflects "the import of the Gaza strategy of total destruction into West Bank operations".[188] Its own source, the Commission's report of August 2025, records that "Palestinian armed groups responded with M16 assault rifles and improvised explosive devices placed on access routes": the devices were real.[189] It also records that houses in Jenin were severely damaged by the Palestinian security forces, and that Israel's Supreme Court approved the demolitions in issue.[190] It nowhere finds a "strategy of total destruction". That phrase is the present Report's own.[191]

D. Impunity

97. The Report says that it is "not aware of any effective investigations, disciplinary or judicial measures", and that sexual violence has been "met with almost complete impunity".[192] Neither statement has a footnote. Its own paragraph 40 records criminal investigations announced by the Israeli military on 19 August 2026. In one of them, an officer had already been removed from his post and a brigade commander was reprimanded.[193] The cases the Commission itself relies on tell the same story.

- **Sde Teiman.** Ten soldiers were arrested and five reservists indicted, as the Commission's own March 2025 paper records.[194] In March 2026 the Military Advocate General withdrew the indictment and published his reasons, among them that the complainant

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[184] Report, para. 38.

[185] Statement of COGAT to Reuters, as published by the Times of Israel, 30 April 2026: https://www.timesofisrael.com/new-maps-provided-to-aid-groups-show-expanded-zone-of-idf-control-in-gaza/.

[186] Report, para. 37. On the Board of Peace, see note 112 above.

[187] Report, para. 36 and footnote 40 ("See A/80/337"); A/80/337 is dated 14 August 2025: https://docs.un.org/en/A/80/337. On the earlier buffer zone it says only that "According to several reports, Israeli forces fired at individuals who were close to the unmarked buffer zone, leading to the deaths of civilians" (para. 22).

[188] Report, paras. 25, 27 and 28.

[189] A/80/337, para. 41.

[190] A/80/337, para. 43.

[191] A/80/337, paras. 79 and 80; Report, para. 28.

[192] Report, paras. 30 and 60.

[193] Israel Hayom, 19 August 2026: https://israelhayom.com/2026/08/19/idf-criminal-probes-hind-rajab-tel-al-sultan-gaza; IDF, war log for 19 August 2026 (Hebrew), entry at 14:00.

[194] A/HRC/58/CRP.6, paras. 154 and 155.

had been released to Gaza, so that it was uncertain he could be cross-examined, and that the defendants' right to a fair trial had been substantially impaired, including by the unauthorised release of investigative material, now the subject of a police investigation into the former Military Advocate General.[195] One may disagree with that decision. It is not impunity. It is an arrest, an indictment, and a prosecutor applying the standards of a fair trial.

- **Wadi as-Seeq.** Paragraph 40 says that in two cases of rape and attempted rape the Military Advocate General's Corps "closed the files after preliminary inquiries despite the existence of digital evidence". Only one of the two cases can be traced. The Report's footnote points to paragraphs 129 to 132 of the Commission's March 2025 paper, which describe an assault on three Palestinian men at Wadi as-Seeq on 12 October 2023. Within days, the army removed the unit's commanding officer and opened an investigation.[196] The "digital evidence" was a photograph of the victims, bound and blindfolded, and photographs of their injuries; it did not show who had done what.[197] Nor was the file closed "after preliminary inquiries". The Military Police conducted a criminal investigation, and in July 2026 the military prosecution concluded that the evidence did not make it possible to attribute the acts, to the criminal standard, "to any of the IDF's soldiers". The army said the conduct did not accord with "the IDF's orders and values", and the unit commander and other soldiers who took part had been dismissed.[198] That is a judgment about evidence, reached after a criminal investigation, and the dismissals are disciplinary measures, in a case the Commission says it investigated. The Report presents it as impunity.

E. Other sources the Commission did not read to the end

- **A/79/232.** This earlier Commission report is cited in the present Report for the detention of "Palestinian civilians from the West Bank".[199] The earlier report contains a section on the 251 people taken hostage by Gazans on 7 October, 226 of them civilians.[200] The present Report, which describes the treatment of Palestinian detainees, does not mention

[195] Military Advocate General's Corps, "The Military Advocate General's decision to withdraw the indictment against the Force 100 soldiers from the Sde Teiman base", published 1 April 2026: https://www.idf.il/en/mini-sites/military-advocate-generals-corps/the-military-advocate-general-s-decision-to-withdraw-the-indictment-against-the-force-100-soldiers-from-the-sde-teiman-base/ (full decision: https://www.idf.il/media/54zl0acn/april-2026-office-open-xml-word-processing-documentdocx.pdf); Associated Press, 12 March 2026: https://cfjctoday.com/2026/03/12/israeli-military-drops-charges-against-soldiers-charged-in-abusing-palestinian-prisoner/.

[196] A/HRC/58/CRP.6, paras. 129 to 132; Haaretz, 21 October 2023: https://www.haaretz.com/israel-news/2023-10-21/ty-article-magazine/.premium/beatings-burns-attempted-sexual-assault-settlers-and-soldiers-abused-palestinians/0000018b-530f-d1d7-ab8b-7f5fca1d0000 ("The army has removed the commanding officer of the unit and opened an investigation").

[197] A/HRC/58/CRP.6, para. 132.

[198] Statement of the Israel Defense Forces, as published in Haaretz (Hebrew edition), H. Shezaf, 31 July 2026, under the headline (translated) "The army closed an investigation into severe abuse of Palestinians, claiming it had failed to establish evidence against specific soldiers" (translations ours): https://www.haaretz.co.il/news/politics/2026-07-31/ty-article/.premium/0000019f-b32b-dfac-a5df-bbfb31170000; English edition: https://www.haaretz.com/west-bank/2026-07-31/ty-article/.premium/idf-closes-probe-into-brutal-2023-abuse-case-of-west-bank-palestinians/0000019f-b729-dfac-a5df-bff97af10000; Times of Israel, 31 July 2026: https://www.timesofisrael.com/liveblog_entry/idf-closes-case-into-ruthless-2023-assault-of-palestinians-by-settlers-soldiers-without-charges-report/.

[199] Report, para. 45.

[200] A/79/232, para. 73.

them. The earlier Commission report also speaks erroneously of "the 75-year-long Israeli occupation of Gaza and the West Bank", dating the "occupation" to 1948.[201]

- **OCHA's West Bank snapshot.** The Report cites OCHA's snapshot for January 2025 to August 2026 for its figure of 34,176 Palestinians displaced.[202] The same sheet records 20 Israelis killed in Judea and Samaria in that period, among them a child and eight members of the Israeli forces. The Report does not mention them.
- **The Commission's paper on children.** Paragraph 21 of the Report says that the Commission "investigated seven cases, and documented six cases, of killings and acts causing bodily and mental harm", and concludes that "Israeli soldiers intentionally killed all the victims". For details, it refers to the Commission's own, earlier paper on children, but two of the incidents it points to do not fit that conclusion.[203] At Anza, a woman was killed and two girls and another woman were wounded, and the paper found that Israeli forces "unlawfully used excessive and unnecessary lethal force".[204] At Tammun, an Israeli inquiry "reportedly found that the children and their adult cousin were targeted after the Israeli soldiers mistakenly concluded that they had planted an explosive device".[205] As for the rest, the Report describes at most eight incidents itself, without saying which of the thirteen cases they are, and the others are described nowhere. Had the Commission examined its own cases with any care, it could not have concluded that soldiers intentionally killed "all the victims", when in some of them the victims survived.
- **Homes, hospitals and hostages.** The Report complains that most of the targets struck on 28 and 29 October were in or next to "densely populated residential neighborhoods".[206] It does not mention what the Commission itself recorded in 2024: Israel's statement that armed groups operate from residential buildings, hospitals, mosques and schools, "even storing weapons in children's rooms"; the photos and videos Israel presented of militants "operating from residential buildings in densely populated areas", of weapons stockpiled in homes, schools and kindergartens, and of weapons within and tunnels beneath Al Shifa, Al Rantisi and Kamal Adwan hospitals; and the public statements of released hostages that they "had been held in a hospital".[207] Nor does it repeat the Commission's own observation that, by operating in this way, "Palestinian armed groups have put the civilian population in harm's way", because the sites they use "may lose their protected status and become legitimate potential targets".[208] Nor does it mention that in May 2025 Israel killed Mohammed Sinwar, the head of Hamas's military wing, in a strike on the courtyard of the European Hospital in Khan Younis, and later recovered his body from a tunnel beneath the hospital.[209]

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[201] A/79/232, para. 101.

[202] OCHA, "] "West Bank | Monthly Snapshot: Casualties, Property Damage and Displacement as of 31 August 2026", cited at footnote 31 of the Report: https://www.ochaopt.org/sites/default/files/West%20Bank_info-graphic_14_September_2026.pdf

[203] Report, para. 21 and footnote 24.

[204] A/HRC/62/CRP.2, paras. 89 and 311.

[205] A/HRC/62/CRP.2, para. 90.

[206] Report, para. 34.

[207] A/HRC/56/CRP.4, paras. 89 and 90; A/79/232, para. 27.

[208] A/HRC/56/CRP.4, para. 91.

[209] TPS, 8 June 2025, reporting the statement of the IDF and the Israel Security Agency: https://tps.co.il/articles/killed-hamas-leader-mohammed-sinwars-body-located/.

F. Israel's account, and Israel's investigations, left out

98. Nine of the killings on which the Report relies are examined below: seven in Judea and Samaria and Jerusalem, and two near the Yellow Line in Gaza. In most, it mentions the Israeli account only to dismiss it, on the strength of witnesses and footage it does not identify. In almost every case, the Israeli account is fuller than the Report allows, and in four a criminal investigation was opened, all of them before 30 September 2026, the date by which the Commission says it knew of no effective investigation. The Report acknowledges that Israeli forces "reportedly conducted or were conducting internal investigations in the majority of the cases investigated by the Commission", yet dismisses them.[210]

- **Hebron, 5 June 2026.** The Report gives the army's account, that the car accelerated towards the soldiers, only to reject it.[211] It omits that the army's own initial inquiry found the family to be "uninvolved civilians", that the army expressed "deep sorrow for any harm caused to uninvolved individuals", and that the Military Police opened a criminal investigation two days later.[212] Its claim that "At a 10 metre range, the soldier would have had a clear, unobstructed view of the persons in the vehicle" assumes what it needs to prove: what a soldier can see into a car depends on light, glare, angle, speed and the time available, none of which the Report addresses.[213]
- **Shu'fat camp, 25 June 2025.** The Report says the authorities "claimed" that officers fired in response to stone-throwing.[214] The Border Police statement said that officers were "attacked in a violent riot that included stone-throwing" and that "one officer was injured in the head by a rock". The Police Internal Investigations Department, which is part of the Ministry of Justice and independent of the police, detained a Border Police officer for questioning.[215]
- **Nur Shams, 9 February 2025.** The army referred the shooting of a pregnant woman to the Military Police for a criminal investigation, as reported at the time.[216] The Report omits this, while attributing to the army a justification for which it gives no source (Part One G).
- **Tammun, 15 March 2026.** The Report gives no Israeli account at all. According to the Israeli authorities, a joint operation by the army and the Border Police to arrest terror suspects was under way in the town; the car accelerated towards the forces, who felt endangered and opened fire; and "the circumstances of the incident were being investigated".[217]

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[210] Report, para 30.

[211] Report, para. 23.

[212] AFP, as published by Arab News, 9 June 2026: https://www.arabnews.com/node/2646596; Times of Israel, 7 June 2026: https://www.timesofisrael.com/military-police-probing-killing-of-palestinian-infant-by-soldier-in-the-west-bank/.

[213] Report, para. 23.

[214] Report, para. 24.

[215] Times of Israel, 25 June 2025: https://www.timesofisrael.com/family-of-grandmother-shot-dead-in-east-jerusalem-says-she-was-killed-by-border-police.

[216] Associated Press, as published by NBC, February 2025: https://www.nbcdfw.com/news/national-international/israel-fatal-shooting-pregnant-palestinian-woman/3767529/ (paraphrasing the army's statement).

[217] Joint statement of the Israeli military and police, 15 March 2026, as reported by the BBC: https://web.archive.org/web/20260316011225/https://www.bbc.com/news/articles/cqxdndz75zvo; and by The Times of Israel: https://www.timesofisrael.com/israeli-forces-kill-west-bank-palestinian-couple-2-children-police-say-car-sped-at-troops/.

- **Jenin, 27 November 2025.** The Report presents as part of a "pattern of extrajudicial executions" the killing of two members of an armed group after they surrendered.[218] It omits that the two men were wanted for bombing and shooting attacks on Israeli troops, that the surrender procedure had lasted several hours, and that the Police Internal Investigations Department opened a criminal investigation into three officers.[219]
- **Nablus, 10 June 2025.** The Report says video footage "refuted" the Israeli account that the two men tried to seize soldiers' weapons.[220] According to the Israeli army, during an inspection in the Kasbah two men tried to seize a soldier's weapon; in the struggle shots were fired, wounding four soldiers, and the soldiers shot both men.[221] The video relied on shows the men approaching with their hands raised and a struggle that followed. It does not show what happened to the weapon.[222] At most, the sequence is contested. It is not "refuted".
- **Jenin camp, 8 September 2025.** The Report says the forces fired "without warning".[223] The army said that those killed had approached the forces and posed a threat, that the soldiers had called on them to disperse, and that they "did not comply with the forces' instructions" before the troops began an arrest procedure; and that it had opened an investigation.[224]
- **Bani Suheila, 29 November 2025.** The Report says that it investigated two incidents near the Yellow Line but describes only one. For the other, its footnote refers, without a paragraph number, to the Commission's paper on children, which describes this case.[225] According to the Commission, two brothers, aged ten and nine, were killed by a drone strike while gathering firewood.[226] The army said the strike targeted "two suspects who crossed the yellow line, conducted suspicious activities on the ground, and approached IDF troops operating in the southern Gaza Strip, posing an immediate threat to them".[227] The Commission rejects that account because the two were more than 300 metres from the soldiers.[228] It does not address whether they had crossed the line, or what the drone operator could see. It is a grave case, and it calls for investigation. Nothing in it shows an intent to destroy Palestinians as a group, which is what genocide requires (Part Seven E).

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[218] Report, para. 26.

[219] Times of Israel, 30 November 2025: https://www.timesofisrael.com/border-cops-who-killed-unarmed-surrendered-terror-suspects-argue-they-feared-harm/.

[220] Report, para. 26.

[221] IDF Spokesperson's update, as reported by Ynet, 10 June 2025: https://www.ynetnews.com/article/p8kc5j5r6.

[222] Video reconstruction published by B'Tselem, 9 December 2025: https://m.btselem.org/video/20251209_soldiers_executed_a_palestinian_after_overpowering_him_and_fatally_shooting_his_brother (description based on a viewing of the video, at approximately 4:39 to 6:22).

[223] Report, para. 29.

[224] Times of Israel, 8 September 2025: https://www.timesofisrael.com/palestinians-say-two-teens-killed-by-idf-in-jenin-army-investigating/.

[225] Report, para. 39 and footnote 44.

[226] A/HRC/62/CRP.2, para. 38.

[227] Statement of the IDF, as reported by CNN, 2 December 2025 (republished by KTVZ): https://ktvz.com/news/national-world/cnn-world/2025/12/02/two-children-were-gathering-firewood-for-their-father-they-were-killed-by-an-israeli-drone-2/; see also The Times of Israel, 29 November 2025, reporting that "Bani Suheila lies on the Israeli-controlled side of the Yellow Line": https://www.timesofisrael.com/brothers-8-and-11-killed-in-south-gaza-strike-idf-suspects-crossed-yellow-line/.

[228] A/HRC/62/CRP.2, paras. 38 and 39.

- **Gaza, 17 October 2025.** The Report reduces the Israeli account to what the army "reportedly" told the media.[229] The army said that a "suspicious vehicle was identified crossing the yellow line and approaching IDF troops", that troops fired warning shots, and that the vehicle "continued to approach the troops in a way that caused an imminent threat to them".[230] Against this, the Commission relies on satellite imagery it has not disclosed.

99. These investigations may or may not lead to prosecutions. But the Report says that, as of 30 September 2026, the Commission was "not aware of any effective investigations, disciplinary or judicial measures", in cases in which criminal investigations had already been opened by the Military Police or, for the Border Police, by a department of the Ministry of Justice outside the police altogether.[231] It calls them "internal investigations", and does not identify them. Its only stated reasons for calling them ineffective are that it knows of no family members or witnesses who were contacted for interviews, and that no family has received a remedy. Neither reason shows that an investigation has failed. That the Commission knows of no witness who was contacted does not mean that none was: as with stone-throwing (Part Four D), what the Commission does not know becomes a finding. On its own standard, a finding requires a body of verified information, not the absence of it (Part One A). In Gaza, moreover, the families and witnesses live, for the most part, under Hamas, which, as the Commission itself found four months earlier, has executed Palestinians for alleged collaboration (Part Six A). As for remedies, reparation is not part of an investigation. It follows a finding that the law was violated, which an investigation still under way has not reached; and an acknowledged mistake is not an acknowledged violation.

100. From cases like these, paragraph 24 concludes that "Israeli authorities have repeatedly provided false justifications for the use of lethal force, intending to deflect responsibility". That is a major logical leap. It rests on three cases. One is Shu'fat, where the Report does not mention the injured officer. The sole footnote in that paragraph refers only to the Commission's paper on children as a whole, without a paragraph number, and paragraph 24 does not say which the other two cases are. [232] A finding that Israel gives false justifications "repeatedly", and with intent, cannot rest on one case reported without the evidence that supports Israel's account, and two that paragraph 24 does not name. In Shu'fat, the one case paragraph 24 describes, the authorities did not deflect responsibility. They investigated it, and an officer was detained for questioning (above). Nor did they in Hebron, where the army's own inquiry found the family to be "uninvolved civilians" and the Military Police opened a criminal investigation (above). The Report's own paragraph 30 records four cases in which the Israeli authorities "acknowledged mistakes".

Part Six: What the Report Leaves Out

101. A report on the causes of violence has to account for the side that started the war, and this one does not. It records the deaths of Palestinians in detail, and passes over the murder of Israelis, the taking of hostages and the doctrine behind both. Even Hamas's

[229] Report, para. 39.

[230] Statement of the Israeli military in response to questions from the BBC, as recorded by Airwars: https://airwars.org/incidents/ispt171025d-october-17-2025.

[231] Report, para. 30.

[232] Report, para. 24 and footnote 25.

violence against Palestinians, which the Commission itself documented four months earlier, is missing.

102. On 7 October 2023, Hamas and other armed groups crossed into Israel, killed more than 1,200 people[233] and abducted 251 people to Gaza, 226 of them civilians, according to the Commission's own earlier reports.[234] The present Report, which undertakes to explain the "drivers" of violence, mentions 7 October only as a starting date, from which it counts the dead (Part Two I) and dates the crimes it attributes to Israel; as the subject of a poll; and, as "the attack of 7 October 2023 in south Israel", as the occasion for an alleged policy of collective punishment. It does not say who carried out that attack or whom it killed, and it does not mention hostages at all. The word "hostage" does not appear in the Report, nor do "rocket", "tunnel" or "human shield". "Hamas" appears twice: once in a list of the dead published by the Israeli army, and once in the Commission's finding that Israel intended to punish civilians for their "alleged support and association" with Hamas.[235]

103. The attack was not an isolated act of violence. It was carried out by an organisation whose founding Covenant opens with the words "Israel will exist and will continue to exist until Islam will obliterate it, just as it obliterated others before it", and quotes a tradition that "The Day of Judgement will not come about until Moslems fight the Jews (killing the Jews)".[236] When Hamas issued a new statement of principles in 2017, its senior official Mahmoud al-Zahar said: "The charter is the core of (Hamas's) position and the mechanism of this position is the document".[237] Two weeks after 7 October, Hamas politburo member Ghazi Hamad said that "Israel is a country that has no place on our land" and "We must remove it"; asked whether that meant the complete annihilation of Israel, he replied "Yes, of course". He added: "The Al-Aqsa Deluge is just the first time, and there will be a second, a third, a fourth".[238] "Al-Aqsa Deluge" is a Hamas's name for the 7 October Massacre.

104. A call to kill Jews is a call to destroy a protected group, not to defeat a State. It is genocidal in terms, and on 7 October Hamas acted on it. The Commission infers genocidal intent on Israel's part from statements it has cut in half (Part Three). It does not examine the explicit, published and repeated statements of the organisation that started this war. The Report devotes its opening section to the supposed intentions of Israel's leaders since 1948. It says nothing of Hamas's.

A. Hamas's violence against Palestinians

105. Four months before this Report, the Commission found that Hamas had committed the war crime of murder against Palestinians in Gaza. It "identified 249 individual cases of executions and severe physical violence inflicted on Palestinians in Gaza in the period 2024-2025, resulting in at least 108 deaths and 384 injuries", and found that the execution

[233] See note 84 above.

[234] A/79/232, para. 73.

[235] Report, paras. 34 and 45.

[236] The Hamas Covenant, 18 August 1988, preamble and art. 7, Avalon Project, Yale Law School: https://avalon.law.yale.edu/20th_century/Hamas.asp.

[237] Reuters, as published by Ynet, 10 May 2017: https://www.ynetnews.com/articles/0,7340,L-4960412,00.html.

[238] Interview with LBC (Lebanon), 24 October 2023, translated by MEMRI and reported by the Times of Israel, 1 November 2023: https://www.timesofisrael.com/hamas-official-says-group-aims-to-repeat-oct-7-onslaught-many-times-to-destroy-israel/.

of 11 victims for alleged collaboration "amounts to the war crime of murder".[239] The summary of the present Report says that it examines killing and harm by the security forces of Israel "and of the State of Palestine".[240] Hamas, which governs Gaza and whose forces carried out those killings, is named in it only in the two places noted above. Its violence against Palestinians does not appear at all.

B. Hamas's violence against Israelis

106. Sexual violence against Israelis is mentioned once, in a footnote stating that the Commission "will continue to investigate".[241] The United Nations' Special Representative on Sexual Violence in Conflict, Pramila Patten, found in March 2024 "reasonable grounds to believe that conflict-related sexual violence occurred at several locations across the Gaza periphery" on 7 October, including "multiple incidents of rape, including gang rape" at the Nova festival site, and "clear and convincing information that sexual violence, including rape, sexualized torture" had been committed against hostages held in Gaza. Her mission stated plainly what it had and had not verified.[242] The present Report does not mention her findings, while it builds findings of crimes against humanity against Israel on accounts it almost never identifies (Part Seven H). That is not balance. It is inversion.

107. Hamas's breaches of the ceasefire appear only as something "Israeli officials allege"; the Report does not say what they were, although they preceded the strikes it examines (Part Five, section A).[243] The Secretary-General's report on resolution 2334, which the Commission cites, records that "Hamas continued to praise attacks by Palestinians against Israelis".[244] The Report does not mention that either, or the Secretary-General's own findings: his 2024 report on children and armed conflict verified "the military use of a school by Hamas' Izz al-Din al-Qassam Brigades and other Palestinian armed groups in Israel" and referred to "numerous other reports of the use of human shields" by them in Gaza.[245] Nor does the Report mention what Israel did to move civilians out of harm's way. By the end of March 2024, according to the Israel Defense Forces, they had dropped some 9.3 million leaflets, sent some 15.5 million text messages and 17 million recorded voice messages, and placed some 100,000 telephone calls, warning civilians to

[239] A/HRC/62/22, paras. 82 and 83: https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiopt/2606092E.pdf.
[240] Report, summary.
[241] Report, footnote 59.
[242] Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, Mission report: official visit to Israel and the occupied West Bank, 29 January to 14 February 2024, published 4 March 2024, paras. 58, 71, 79 and 84: https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2024/03/report/mission-report-official-visit-of-the-office-of-the-srsg-svc-to-israel-and-the-occupied-west-bank-29-january-14-february-2024/20240304-Israel-oWB-CRSV-report.pdf.
[243] Report, para. 33.
[244] Report of the Secretary-General on the implementation of Security Council resolution 2334 (2016), delivered on 28 September 2026, cited at footnote 35 of the Report.
[245] Secretary-General, Children and armed conflict, A/78/842–S/2024/384, 3 June 2024, para. 104: https://documents.un.org/doc/undoc/gen/n24/095/07/pdf/n2409507.pdf.

evacuate.[246] These numbers should be compared with a total population of the Gaza Strip of some 2.2 million in 2023, of which over a million were children.[247]

C. The Palestinian Authority, and the blame that returns to Israel

108. The Report's section on the Palestinian Authority finds violations of the right to life and of freedoms of expression and assembly. Even here, the armed groups in Gaza drop out. Paragraph 63 attributes the Authority's abuses to its security cooperation with Israel, and says the Oslo Accords gave Israel "exclusive responsibility" for the security of Israelis. Article XII of the Interim Agreement does not use the word "exclusive", and assigns the Palestinian side its own responsibility "to guarantee public order and internal security".[248] The so-called "revolving door policy" the Report says it "previously reported" was, in its source, a phrase used by one activist, which the Commission said "warrants further investigation".[249] The Report also omits the fact that, of the fifteen people killed during the Authority's operation in Jenin camp, six were officers of the Palestinian security forces, which shows the Authority was facing armed groups in the camp.[250]

109. The Report also judges the two by different standards. Israeli operations were conducted "for the alleged purpose of counter-terrorism" (paragraph 45), while the Authority's operation "reportedly aimed at arresting members of Palestinian armed groups as part of the security cooperation" with Israel (paragraph 66): the one purpose is put in doubt, the other is reported, and tied to Israel. Against Israel, unsourced accounts become findings of crimes against humanity, while an allegation against the Authority's forces would amount to a violation only "if verified" (paragraph 73). Israeli conduct is explained by an intent to destroy, expel or punish; the Authority, on the other hand, "continues to struggle with credibility and legitimacy, more so following Israeli attacks on Gaza and the West Bank" (paragraph 74).[251]

110. The Report says that it examines "the drivers of Israeli and Palestinian state violence".[252] It says nothing of "pay for slay": the Palestinian Authority's payments to terrorists held in Israeli prisons, rising with the length of their sentences, and to the families of terrorists killed while carrying out attacks.[253] The Authority announced in February 2025 that it had ended the system, but the United States State Department has since told Congress that it "continues to provide a system of compensation in support of terrorism through a

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[246] Israel Defense Forces, "Data Regarding Evacuation of Civilian Population Within Gaza", 6 April 2024 (data as of 31 March 2024): https://www.idf.il/en/mini-sites/idf-press-releases-israel-at-war/april-24-press-releases/war-against-hamas-6-months-operational-update/data-regarding-evacuation-of-civilian-population-within-gaza/.

[247] L. Mohammad, "Children make up nearly half of Gaza's population. Here's what it means for the war", NPR, 19 October 2023 ("The population of the Gaza Strip is 2.2 million"; "Nearly half (47.3%) are under 18"): https://www.npr.org/2023/10/19/1206479861/israel-gaza-hamas-children-population-war-palestinians.

[248] Interim Agreement on the West Bank and the Gaza Strip (Oslo II), 28 September 1995, art. XII(1): https://www.un.org/unispal/document/auto-insert-185434/; Report, para. 63.

[249] Report, para. 63 and footnote 66, citing A/HRC/53/22: https://docs.un.org/en/A/HRC/53/22.

[250] A/HRC/61/26, para. 36: https://docs.un.org/en/A/HRC/61/26; Report, para. 66.

[251] Report, paras. 45, 66, 73 and 74.

[252] Report, para. 1.

[253] The Media Line, 10 January 2018, reporting figures released by Israel's Ministry of Defense: https://themedialine.org/mideast-daily-news/israel-reveals-amounts-stipends-palestinian-authority-pays-terrorists/print/.

new mechanism under a different name".[254] A report on the drivers of Palestinian violence that ignores a rewards system for terrorists and their families has not examined the question it set itself.

Part Seven: From These Facts to Atrocity Crimes

111. The Report concludes that Israel has committed, in Judea and Samaria, the crimes against humanity of extermination, persecution, torture and rape, and that in Gaza it "continue[s] to commit genocidal acts".[255] Each finding is reached by a step the evidence does not support.

What a crime against humanity requires

112. A crime against humanity is one of the listed acts "when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack".[256] The civilian population must be the object of the attack, not incidentally, even if knowingly, affected by operations against armed groups. The Report's list of "key factors" in paragraph 42 does not address this. Some of its factors are legitimate indicators of scale. Others are not legal criteria at all. A "practice of denying responsibility" after the event cannot turn earlier acts into an attack targeting civilians, and the "statements of the Israeli authorities" are evidence of a policy only if they say what the Commission claims they say, which Part Three shows they do not. Statements expressing dissent or proposing changes to the Government's policy cannot plausibly reflect that policy; the Commission's sleight of hand in this respect reflects its conclusion-driven, rather than evidence-driven, method.

113. The Report also assumes its legal framework. It treats Israeli operations in Judea and Samaria as law enforcement, and finds that Israel "applies the conduct of hostilities paradigm to law enforcement operations".[257] Israel's Supreme Court has held that between Israel and the terrorist organisations active in Judea, Samaria and Gaza "a continuous situation of armed conflict has existed".[258] Operations against organised armed groups in the camps of Jenin and Tulkarm, which the Commission's own reports describe as fighting against rifles and explosive devices (Part Five C), are governed by the rules on the conduct of hostilities. The policing of riots and demonstrations is different, as the IDF itself told the Israeli Supreme Court in a case about the Gaza border demonstrations.[259] Which rules apply therefore depends on the situation, and the Commission must show it incident by incident. It does not try.

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[254] Axios, 10 February 2025: https://www.axios.com/2025/02/10/palestinian-president-revokes-prisoner-payments-dubbed-pay-for-slay; Washington Free Beacon, 28 January 2026, quoting a State Department notice to Congress: https://freebeacon.com/israel/palestinian-authority-promised-terrorists-more-than-200-million-in-pay-to-slay-payments-after-it-scrapped-program-state-department-tells-congress/.

[255] Report, paras. 54 and 59.

[256] Rome Statute of the International Criminal Court, arts. 7(1), 7(1)(h) and 7(2)(g): https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf.

[257] Report, para. 53.

[258] HCJ 769/02 *Public Committee Against Torture in Israel v. Government of Israel* (2006), para. 16: https://casebook.icrc.org/case-study/israel-targeted-killings-case.

[259] HCJ 3003/18 *Yesh Din – Volunteers for Human Rights v. Chief of the General Staff* (2018), para. 39, in the English translation reproduced at https://casebook.icrc.org/case-study/great-march-return-demonstrations-and-israels-military-response.

114. Nor does the Report say what the force it calls "unnecessary and excessive" was meant to achieve.[260] Necessity and proportionality are measured against a legitimate objective, whether a military advantage or the protection of life. A finding that force was excessive, made without identifying the objective, applies no legal test: it is an assertion. And lawfulness is judged on what a soldier or commander knew, or reasonably believed, at the time, not on what was learned afterwards. A mistaken assessment, honestly and reasonably made under uncertainty, is not an intentional unlawful killing. The Commission appears to presume culpability without any analysis, let alone a rigorous one, of the facts of the conduct alleged. For the Commission, Israeli commanders are guilty until proven otherwise. That is not the standard of a body that upholds the rule of law.

A. Extermination

115. Extermination is among the gravest of the crimes against humanity. The Elements of Crimes require that the conduct "constituted, or took place as part of, a mass killing of members of a civilian population".[261] Killings that are lawful under international humanitarian law, including civilian deaths incidental to a lawful attack and not excessive, are not extermination. The Report applies it to the deaths of about 1,080 Palestinians killed by Israeli forces over nearly three years.[262] It counts them together as one mass killing. Separate killings may be added together for this purpose if they are part of "one and the same operation", but the "collective consideration of distinct events committed in different locations, in different circumstances, by different perpetrators, over an extended period of time cannot satisfy the requirement of killing on a large scale".[263] The Report does not attempt to show that these deaths, across the whole of Judea and Samaria and nearly three years, were one operation. It does not examine them under the applicable law, or ask how many of the dead were combatants. It is puzzling that it does not mention what its own sources say: on the UN Human Rights Office's count, fewer than half were shown to be uninvolved in violence, and the commander the Report quotes says that 70 percent were armed (Parts Three B and Five). Carrying a weapon does not, on its own, make every killing lawful; each requires its own assessment, in the context of an armed conflict. But a finding of mass killing of civilians requires the Commission at least to establish who was killed, and in what circumstances. It does neither. A finding of extermination that adds up three years of distinct deaths, and never separates fighters from civilians, is not a finding of extermination.

B. Settler violence as an act of the State

116. Four months earlier the Commission found that settler violence "functions as a means of implementing Israeli State policy"; that the six attacks it had investigated occurred "with the direct involvement or tacit support of Israeli security forces"; and that the authorities had "permitted and enabled settler attacks, including through army support and the provision of weapons and financial support to settlers".[264] Even so, it found only that

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[260] Report, para. 14.

[261] ICC, Elements of Crimes, art. 7(1)(b), element 2: https://www.icc-cpi.int/sites/default/files/Publications/Elements-of-Crimes.pdf.

[262] Report, para. 17.

[263] *Prosecutor v. Stanišić and Župljanin*, ICTY Appeals Chamber, Judgement, 30 June 2016, para. 1022: https://www.icty.org/x/cases/zupljanin_stanisicm/acjug/en/160630.pdf; *Prosecutor v. Karemera and Ngirumpatse*, ICTR Appeals Chamber, Judgement, 29 September 2014, para. 661: https://unictr.irmct.org/files/case-documents/ictr-98-44/appeals-chamber-judgements/en/140929.pdf.

[264] A/HRC/62/22, paras. 73 and 74.

settler violence "may be attributable to Israel, particularly when it is committed on the instruction, or under the direction or control, of the State".[265] The present Report, citing that report without a paragraph number, and nothing more, finds that the authorities "utilised settler violence to target the Palestinian civilian population, and intended settlers' conduct to form part of the 'attack'", and that they "knew and intended settler violence to be part of the attack".[266] Violence that "may be attributable" to the State, if committed on its instruction or under its control, has become violence the State used and intended. No new evidence bridges that gap. A possibility has become a finding of intent by assertion alone.

117. The Report moves from "tacit support" to "utilised" and "intended" without explaining how. An intent inferred from conduct must be the only reasonable inference from that conduct (Part One E). The Report does not try to show that it is and considers no other explanation. Nor does the "provision of weapons" help it. After 7 October 2023, when civilian security squads had helped to repel Hamas's gunmen, Israel set up hundreds more and armed them to protect small communities in Israel's periphery and in Judea and Samaria.[267] The Commission's own paper refers to these "rapid response units", and records what those communities face: Palestinian attacks killed 42 Israeli civilians in Judea and Samaria between 2023 and 2025, 36 of them settlers.[268] It does not connect the units, or their weapons, to any of the six attacks it investigated.[269] Arming people to defend their communities is not evidence of an intention to attack anyone. Finally, the Report ignores the legal test whose words the Commission itself used. Under article 8 of the International Law Commission's Articles on State Responsibility, the conduct of private persons is attributable to a State if they are "in fact acting on the instructions of, or under the direction or control of, that State in carrying out the conduct".[270] The ICJ has held that "effective control" must be exercised, or instructions given, "in respect of each operation in which the alleged violations occurred, not generally in respect of the overall actions taken by the persons or groups of persons having committed the violations".[271] The Report identifies no instruction, and no operation that Israel directed or controlled: none of the circumstances in which, the Commission itself said, settler violence would most clearly be attributable to Israel. Yet it treats that violence as Israel's own, used and intended.

C. Persecution

118. Persecution is "the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity", on "political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other

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[265] A/HRC/62/22, para. 73; see also para. 76.

[266] Report, paras. 43 and 47.

[267] J. Sharon, "600 civil security squads established since Oct. 7 to boost 'sense of security'", Times of Israel, 25 October 2023: https://www.timesofisrael.com/600-civil-security-squads-established-since-oct-7-to-boost-sense-of-security/.

[268] A/HRC/62/22, paras. 28 and 68: https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiopt/2606092E.pdf.

[269] A/HRC/62/22, para. 74.

[270] International Law Commission, Articles on Responsibility of States for Internationally Wrongful Acts (2001), art. 8, annexed to General Assembly resolution 56/83: https://docs.un.org/en/A/RES/56/83.

[271] *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Bosnia and Herzegovina v. Serbia and Montenegro*), Judgment, I.C.J. Reports 2007, p. 43, para. 400 (p. 208): https://www.icj-cij.org/sites/default/files/case-related/91/091-20070226-JUD-01-00-EN.pdf.

grounds that are universally recognized as impermissible under international law".[272] The Commission must therefore show that Palestinians were targeted because of who they are, not because of what some of them were doing.

119. The persecution finding rests on two propositions. The first is that the rules of engagement are applied "exclusively to Palestinians", traced in Part Four to a 2023 comparison of how demonstrations were policed.[273] The second is that "Israeli security personnel are prohibited from using lethal force against Jewish Israelis in the West Bank".[274] The Commission's source contradicts it: the Haaretz article it cites records Israeli personnel firing on Jewish stone-throwers and assailants, wounding a teenager, hitting someone in the neck and fatally wounding another.[275]

120. What the same article records is a preference, not a prohibition: Major General Bluth said he preferred that troops use non-lethal means and arrest against Jewish stone-throwers, and accepted that "it involves discrimination".[276] Whether that difference can be justified is a fair question. But lethal force is lawful only where necessary, and the availability of arrest bears directly on necessity. The Commission does not try to show that arrest was a realistic option in the Palestinian cases it relies on, or that it was not in the Israeli ones. It assumes the comparison it needs. A difference in enforcement practice is a matter for review and correction. It is not the crime against humanity of persecution, which requires a severe deprivation of fundamental rights, on discriminatory grounds, as part of a widespread or systematic attack on a civilian population. Soldiers who use lethal force against those who threaten them, and arrest those who can safely be arrested, are responding to the threat, not to the identity of the person posing it.

D. Ayşenur Eygi

121. Ayşenur Eygi was killed on 6 September 2024 near Beita.[277] The Report finds that the soldier who shot her "deliberately targeted the victim, with the intent to kill her".[278] Its reasons are that she was shot "after the clashes had largely subsided about 20 minutes prior", that she "was the only person directly shot", that the soldier "would have had a clear line of sight and would have known that she was unarmed", and that he "reportedly raised a fist to a colleague, signalling success".[279] Not one of these propositions is sourced. Who measured the twenty minutes, who established the line of sight, and who reported the gesture, the Report does not say. These are questions for investigators at the scene, with access to the ground, the weapon and the military's own inquiry. The Commission, which investigates at a distance (Part One F), had none of them. Yet it claims to know the soldier's mind: what he "would have known", and that he fired "with the intent to kill her". It does not identify him, does not say that it heard his account, and does not explain how it knows what he intended. Nor does it mention that the Israeli military's inquiry found it highly likely that she was hit indirectly and unintentionally by fire aimed at a key instigator of a riot, or that a Military Police criminal investigation was

[272] See note 256 above.
[273] Report, paras. 19 and 50.
[274] Report, para. 19.
[275] Haaretz (note 104 above).
[276] Haaretz (note 104 above).
[277] Report, para. 22.
[278] Report, para. 52.
[279] Report, paras. 22 and 52.

opened.[280] A finding of the war crime of wilful killing rests on facts the Report does not source, an intent it has no way of knowing, and an inquiry it does not mention.

122. To bring the death of a Turkish-American activist within a crime against humanity directed at Palestinians, the Report finds that "she was perceived by the Israeli soldiers as part of the targeted population".[281] Here too it claims to know what soldiers were thinking, and offers no evidence. If, as the military's inquiry found likely, the fire was not aimed at her at all, the question of how she was perceived does not arise.

E. Genocide, continuing

123. The Report's finding that Israel continues to commit genocide in Gaza rests on "the cases investigated for this report (paragraphs 34-35 and 39)".[282] Paragraphs 34 and 35 describe the strikes of 28 and 29 October 2025, which, on the Israeli military's record that the Report itself cites, followed Hamas's violations of the ceasefire and were aimed at commanders who took part in the massacre of 7 October (Part Five A). Paragraph 39 concerns two incidents near the Yellow Line, and the paragraph before it attributes civilian casualties there to a "failure to clearly communicate the boundaries of the Yellow Line", which led civilians to approach it "unintentionally": an explanation other than genocide, offered by the Commission itself. The Report adds that acts of sexual violence "continue to be a part of a pattern to destroy the Palestinian as a group in Gaza". The pattern is the one the September 2025 paper inferred from a single recycled account (Part Four A). The new cases are six alleged cases at Sde Teiman, only two of them described in a single sentence and the rest not at all, and two flotilla participants the Report says were targeted for their "support to the rights of Palestinians": supporters of the group, not members of it, therefore irrelevant to genocide.[283]

124. On any reading, this is the whole of the evidence for a continuing genocide: a handful of incidents, none of which the Report shows to have been directed at Palestinians as a group rather than at specific people in particular circumstances. The Commission's own September 2025 paper accepted that genocidal intent must be "the only reasonable inference that could be drawn from the totality of the evidence", and that the ICJ requires evidence that is "fully conclusive".[284] The totality of the evidence for this period includes a ceasefire that, as the Board of Peace told the Security Council, has held (Part Three E); and, where abuse was alleged at Sde Teiman, the arrest and indictment of soldiers (Part Five D). That is not the conduct of a State bent on destroying a people. Against that record, a handful of incidents can show, at most, exceptions; they cannot show a rule. The Report mentions neither test, and does not weigh any of it.[285] In effect, it presumes the intent it has to prove.

[280] IDF, "IDF Initial Inquiry into the Death of Aysenur Ezgi Eygi", 10 September 2024: https://m.www.idf.il/en/mini-sites/idf-press-releases-israel-at-war/september-24-pr/idf-initial-inquiry-into-the-death-of-aysenur-ezgi-eygi/ (paraphrased).

[281] Report, para. 43.

[282] Report, para. 54.

[283] Report, paras. 38, 39, 41 and 56.

[284] A/HRC/60/CRP.3, paras. 156 and 254.

[285] Report, paras. 34, 35, 38, 39, 41, 54 and 56.

F. Children

125. The Report finds that Palestinian children are "deliberately targeted on discriminatory grounds based on their age".[286] For this, it cites the Commission's paper on children, without a paragraph number. The relevant passage of that paper says something different and more serious: that "the high number of boys killed reflects a policy of targeting boys due to their perceived threat as 'terrorists' or 'future terrorists'".[287] That is an accusation that Israel targets boys for what they might one day become. The paper's only source for it is a video of a minister commenting on a single incident, in which a 12-year-old boy was killed in March 2024. The minister called the boy a terrorist because, he said, the boy had endangered the forces by firing fireworks at them.[288] Whatever one makes of that comment, it concerns what one boy was said to have done, not what boys might become. It says nothing of a policy, and nothing of "future terrorists". Few accusations could be graver, and few rest on less. Nor does the paper consider what its own figures suggest. Of the 213 children it counts as killed by Israeli forces in Judea, Samaria and East Jerusalem in two years, 206 were boys and seven were girls.[289] Children of the same age are not killed at such different rates because of their age. The disparity points to something else, which the paper does not examine.

126. What the paper does not consider is that armed groups recruit children. The IDF have stated that in Gaza "children undergo both theoretical and practical military training" and that, "[b]ased on intelligence it is estimated that a significant number of minors are active" in Hamas and Islamic Jihad.[290] The US Government reports that "Palestinian Islamic Jihad and Hamas have allegedly recruited and used children in Gaza", and that children in Gaza "are also vulnerable to recruitment into the armed wings of Hamas and Palestinian Islamic Jihad".[291] Among those detained for the attack of 7 October 2023 were, according to one of the leaders of the investigation in the Israel Police's international crimes unit, "teenagers, aged 17 or 16".[292] Before the war, the United Nations itself verified the recruitment of Palestinian children, in Judea and Samaria as well as Gaza, including by Hamas's al-Qassam Brigades and Islamic Jihad's al-Quds Brigades, and the Secretary-General called on both "to immediately cease the recruitment and use of children".[293] Hamas itself has said that its military wing has run training camps

[286] Report, para. 50 and footnote 55 (citing A/HRC/62/CRP.2).

[287] A/HRC/62/CRP.2, para. 87 and footnote 87.

[288] Video cited at footnote 87 of A/HRC/62/CRP.2: https://www.youtube.com/watch?v=JBkNDNj05XA, at 3:30 (paraphrased; translation ours); The Irish News, 13 March 2024: https://irishnews.com/news/world/israeli-minister-defends-police-officer-who-shot-dead-palestinian-boy-12-in-east-jerusalem-as-he-held-a-firework-RINI7KTW3NFP7MIRIGTEF5UGKQ.

[289] A/HRC/62/CRP.2, para. 87.

[290] Israel Defense Forces, "Hamas and Islamic Jihad Use Children for Terrorist Activities and Incitement", 3 January 2024: https://www.idf.il/en/mini-sites/idf-press-releases-israel-at-war/january-24-pr/hamas-and-islamic-jihad-use-children-for-terrorist-activities-and-incitement.

[291] United States Department of State, 2024 Country Reports on Human Rights Practices: Israel, West Bank and Gaza (West Bank and Gaza), s. 3(b), "Child Soldiers": https://www.ecoi.net/en/document/2128587.html; United States Department of Labor, Findings on the Worst Forms of Child Labor: West Bank and the Gaza Strip (2024): https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2024/West-Bank-Gaza-Strip.pdf.

[292] Jerusalem Post, 14 March 2024, citing a Makor Rishon report quoting Alex Namirovski of the Israel Police: https://jpost.com/israel-news/article-792023.

[293] Secretary-General, Children and armed conflict, A/73/907–S/2019/509, paras. 85 and 97 (three boys aged 17, two in Gaza and one in Judea and Samaria; para. 85 also records testimony that Israeli forces attempted to recruit three children as informants): https://www.un.org/unispal/document/children-and-armed-conflict-report-of-the-secretary-general-a-73-907-s-2019-509; A/75/873–S/2021/437, paras. 76 and 85 ("The United Nations

for young people "for over ten years".[294] According to the IDF, during the war Hamas used children to carry messages and ammunition and to deliver explosive devices disguised as bags of vegetables, and sent them out after attacks to "assess the damage and report it to the terrorists who are hiding in shelters".[295] The Report does not ask how many of the children it counts were members of armed groups.

127. Nor do the individual cases in the Commission's paper on children establish who fired, or at whom. One doctor "estimated that, within two weeks of her deployment in a hospital, she saw around five children shot by quadcopters"; how she could tell from a wound what had fired the bullet, the paper does not ask.[296] It then infers "deliberate targeting" from nothing more than what quadcopters can do: because their operators can see their targets, every child they hit is taken to have been aimed at. Of an eight-year-old whose family told his doctor that he had been shot while playing, the Commission, informed that a 3cm bullet was removed in surgery, "assesses that the boy was hit by a .338 Lapua Magnum cartridge fired from a Dan .338 calibre Israeli sniper rifle", without describing any examination of the bullet.[297] Accounts passed from relatives to doctors, and from doctors to the Commission, cannot show which weapon was fired, by whom, or at whom. The Commission turns hearsay, and hearsay upon hearsay, into findings of fact, although any fact-finder knows that such evidence must be treated with the greatest caution.[298]

128. As a matter of law, age is not one of the grounds listed in the Rome Statute's definition of persecution. Persecution on grounds of age can therefore be found only if discrimination on that ground is "universally recognized as impermissible under international law", which the Report does not attempt to show.[299] The Commission's paper on children asserts it in a single paragraph, relying on article 21(3) of the Statute and on a policy paper of the Prosecutor's Office which, as the paper quotes it, says that "other grounds" "could include" the targeting of children due to their age.[300] A policy of the Prosecutor is not a ruling of the Court, and article 21(3), which governs how the Court applies the law, does not add to the grounds of persecution.[301] And the Report reaches its finding for Judea and Samaria by extension: asserting that Israeli authorities and forces committed age-based persecution "in the West Bank, as they did in Gaza", on the strength

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verified the recruitment of two Palestinian boys by Hamas' al-Qassam Brigades in Gaza"): https://www.un.org/unispal/document/children-and-armed-conflict-report-of-the-secretary-general-a-75-873-s-2021-437-excerpts/.

[294] J. Truzman, "Hamas defends its military summer camps for children and teenagers", FDD's Long War Journal, 1 July 2021: https://www.longwarjournal.org/archives/2021/07/hamas-defends-its-military-summer-camps-for-children-and-teenagers.php.

[295] E. Fabian, "IDF accuses Hamas, Islamic Jihad of using child soldiers", Times of Israel, 3 January 2024: https://www.timesofisrael.com/liveblog_entry/idf-accuses-hamas-islamic-jihad-of-using-child-soldiers/.

[296] A/HRC/62/CRP.2, para. 64.

[297] A/HRC/62/CRP.2, para. 68.

[298] *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Bosnia and Herzegovina v. Serbia and Montenegro*) (note 271 above), para. 213, quoting *Armed Activities on the Territory of the Congo* (*Democratic Republic of the Congo v. Uganda*), Judgment of 19 December 2005, para. 61: the Court "will treat with caution evidentiary materials specially prepared for this case and also materials emanating from a single source" and "will prefer contemporaneous evidence from persons with direct knowledge". See also para. 227 of the 2007 Judgment, on reports from official or independent bodies.

[299] See note 256 above.

[300] A/HRC/62/CRP.2, para. 273 and footnote 329.

[301] Rome Statute of the International Criminal Court, art. 21(3): https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf.

of very few cases there.[302] It says nothing of the measures Israel has taken to protect children in Gaza, *inter alia*, the tactical humanitarian pauses facilitated for the polio vaccination campaigns of 2024, in which some 1.1 million vaccines were administered.[303]

G. The flotilla

129. The Report finds that two participants in the Global Sumud Flotilla of 2025 were victims of the crimes against humanity of rape, torture and persecution "based on gender, sexual orientation and political affiliation and support to the rights of Palestinians".[304] The finding rests on two cases, neither sourced nor particularised. The Israel Prison Service has, in respect of similar allegations by a participant in another flotilla of 2025, rejected "any allegation of rape, sexual assault or systematic abuse by its personnel".[305] The blockade of Gaza is lawful, as the then UN Secretary-General's Panel of Inquiry found in 2011, and so is its enforcement against vessels that declare their intention to breach it; UKLFI has set out the legal position in detail.[306]

130. A single act can be a crime against humanity if it forms part of a wider attack. The question is therefore whether the Commission has shown that the treatment of two foreign activists, detained after attempting to breach a naval blockade, formed part of an attack directed against the Palestinian civilian population of Judea and Samaria or Gaza, and that those responsible knew it. It has not even tried. More than 470 participants, on their lawyers' count, were detained and deported (Israel's Foreign Ministry announced the deportation of 171 in a single day)[307]; the Report identifies two cases and offers nothing to connect them to the attack it alleges elsewhere. The Commission passes over essential elements of the very rules it applies.

131. The war crimes the Commission finds in paragraph 55 of the Report raise a further difficulty. Torture and inhuman treatment are, in an international armed conflict, grave breaches of the Geneva Conventions, which can be committed only against "protected persons"; nationals of a neutral State in the territory of a belligerent "shall not be regarded as protected persons while the State of which they are nationals has normal diplomatic representation" there.[308] That point does not dispose of every possible charge, but the

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[302] Report, para. 61; see also para. 50 and footnote 55.

[303] Times of Israel, 6 November 2024, reporting statements of the IDF and COGAT: https://www.timesofisrael.com/over-1-million-gazans-vaccinated-in-fresh-polio-campaign-idf-says/.

[304] Report, paras. 41 and 56.

[305] Jerusalem Post: https://www.jpost.com/israel-news/article-902739, quoting the Israel Prison Service's statement to the Guardian. The statement concerned allegations by a participant in a flotilla intercepted on 8 October 2025.

[306] UKLFI Charitable Trust, "The Israeli Navy's Interception of the Global Sumud Flotilla on 29–30 April 2026: The Legal Position", 20 May 2026: https://www.uklfi.com/wp-content/uploads/2026/05/Flotilla-Brief-final-on-headed-notepaper.pdf. The briefing concerns the interception of April 2026; its analysis of the lawfulness of the blockade applies equally to the earlier sailing considered by the Commission. The briefing relies, among other authorities, on the report of the Secretary-General's Panel of Inquiry of September 2011 (the Palmer Report).

[307] Associated Press, 6 October 2025, quoting a lawyer for the detainees ("more than 470 Global Sumud Flotilla participants who were detained last week"): https://www.boston.com/news/world-news/2025/10/06/greta-thunberg-flotilla-activists-deported-israel/; Israel Ministry of Foreign Affairs, post on X, 6 October 2025 ("171 additional provocateurs from the Hamas–Sumud flotilla, including Greta Thunberg, were deported today from Israel to Greece and Slovakia"): https://x.com/IsraelMFA/status/1975171094991503716.

[308] Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949), art. 4: https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-4; Rome Statute, art. 8(2)(a); Report, para. 55.

Commission does not say of which State the alleged victims were nationals, or address this point in any way. Nor does the Commission explain the connection with the armed conflict that every war crime requires: namely, that the armed conflict played a substantial part in the perpetrator's ability or decision to commit the crime, or in the manner or purpose of its commission.[309] The alleged mistreatment took place in custody, and the Commission does not say what part the conflict played in it. Allegations of mistreatment in detention cannot be elevated into atrocity crimes by assertion. Crimes against humanity are crimes of scale or organisation: they require a widespread or systematic attack on a civilian population. Applied to two unparticularised allegations among more than 470 detentions, in a situation outside of the conflict, the term loses its meaning.

H. From incidents to policy

132. The Report's conclusions move from incidents to policy without evidence of the step between. Paragraph 49 finds that the cases of sexual violence "were not isolated incidents" and that "the Israeli authorities support and encourage such acts", on the strength of the cases listed below, almost none of them identified. Paragraph 60 says that sexual violence "has been and continues to be widely reported, and met with almost complete impunity, indicating a tacit support of such practices". A handful of unsourced accounts is not wide reporting. Nor does a failure to punish establish a policy. The ICC's Elements of Crimes require that the State "actively promote or encourage such an attack against a civilian population". They accept that such a policy "may, in exceptional circumstances, be implemented by a deliberate failure to take action, which is consciously aimed at encouraging such attack", but provide that "The existence of such a policy cannot be inferred solely from the absence of governmental or organizational action".[310] The Commission purports to infer it from less than that. Its further step, that impunity indicates "unwillingness, rather than inability, to act", borrows the language of the Rome Statute without its test. Under the Statute, a case "being investigated or prosecuted by a State which has jurisdiction over it" is not admissible before the ICC unless the State is "unwilling or unable genuinely" to carry out the investigation; and unwillingness is judged by whether the proceedings were undertaken "for the purpose of shielding" the person concerned, whether there has been "unjustified delay", and whether they were conducted "independently or impartially".[311] The Report applies none of these tests. And the record in Part Five D shows that crimes were investigated, prosecuted and disciplined. None of this means that an unlawful act by a soldier concerns the soldier alone: a State answers for the conduct of its forces, and individuals answer for their crimes. But neither proposition establishes the State policy that a crime against humanity requires.

133. The cases of sexual violence in the Report are four cases in detention that the Commission says it has verified since March 2025, of which it describes only one, an alleged gang rape at Megiddo prison in 2025; a pregnant detainee at Damon prison and a woman held at the Jalma interrogation centre and at Damon, who may or may not be among those four; two cases of rape and attempted rape whose files are said to have been closed "despite the existence of digital evidence"; six cases at Sde Teiman; and the two

[309] *Prosecutor v. Kunarac et al*., ICTY Appeals Chamber, Judgement, 12 June 2002, paras. 58 and 59: https://www.icty.org/x/cases/kunarac/acjug/en/kun-aj020612e.pdf.

[310] ICC, Elements of Crimes, Introduction to art. 7, para. 3 and footnote 6: https://www.icc-cpi.int/sites/default/files/Publications/Elements-of-Crimes.pdf.

[311] Rome Statute, art. 17(1)(a) and (2): https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf.

flotilla cases (section G).[312] Two of these cases concern foreign activists, and have no evident connection with an attack on the Palestinian civilian population (section G). Only one case can be traced: the Report's footnote identifies the assault at Wadi as-Seeq, which Israel investigated (Part Five D). The six cases at Sde Teiman carry a footnote only to the March 2025 paper after which they are said to have been documented. None of the others is dated with precision, attributed to a source, or described in enough detail to be checked. The allegations are grave, and if substantiated they must be investigated and prosecuted. Complainants' identities can be protected while particulars are given. A finding of a crime against humanity cannot rest on accounts that no one outside the Commission can examine. Nor can such accounts, from different places and years, show what paragraph 49 asserts: that the acts "were not isolated incidents".[313]

134. Paragraph 58 states that Israel's policies "have resulted in the excessive and discriminatory application of lethal force, displacing and killing Palestinians over several generations". The Report offers no evidence for the claim about generations. Its own figures show that fatalities in Judea and Samaria "significantly increased since 2022", and record six Palestinians killed by airstrikes there between 2008 and 6 October 2023; and its own account is that the rules of engagement were "reportedly broadened after 7 October 2023".[314]

135. Paragraph 53 lists eight human rights that Israel is said to have violated, from the right to life to the "right of children to engage in play and recreational activities", without applying any of them to any facts. It adds that Israel neglected "to prevent foreseeable harm", without identifying any harm that was foreseen and not prevented.[315]

136. The Report's account of the legal setting is no more careful. Paragraph 62 records that in Area A the Palestinian Authority "is responsible for internal security and public order for Palestinians", and then that Israel "maintains full effective control of external security and movement in the whole of the West Bank". A retained power to restrict movement for security purposes is not control of every movement, and the Report's own description of Areas A and B contradicts it. Paragraph 58 says that the occupation "has been ruled unlawful under international law". That is a misrepresentation: no court has ruled on the question. The ICJ gave an advisory opinion. It is not binding, it was adopted on that point by eleven votes to four, and it made no finding on any of the cases this Report examines.[316]

Part Eight: Recommendations That Misstate the Law

137. The Report's recommendations to Israel present the Commission's own views as settled law, and claim the authority of the ICJ for demands that Court did not make.

- **The Advisory Opinion.** The Commission asks Israel, "In compliance with the advisory opinion of July 2024 of the International Court of Justice, immediately end the unlawful occupation of Palestinian territory, cease all new settlement activities, remove all settlers and settlements".[317] An advisory opinion is, as its name says, advisory. It is not binding, and the language of "compliance" presents it as though it

[312] Report, paras. 31 32, 40, 41, 49, 55 and 56.
[313] Report, para. 49.
[314] Report, paras. 17, 18, 27 and 58.
[315] Report, para. 53.
[316] Report, paras. 58 and 62; Advisory Opinion of 19 July 2024 (note 83 above), para. 285(3).
[317] Report, section VI, recommendation (a) to the Government of Israel.

were. Nor does the recommendation follow it. The Court opined that Israel is under an obligation to end its presence "as rapidly as possible", and to "cease immediately all new settlement activities, and to evacuate all settlers".[318] For ending the occupation, "immediately" is the Commission's word, not the Court's.

- **The provisional measures.** The Commission asks Israel to "Immediately end the commission of genocide in Gaza, comply fully with the January, March and May 2024 orders for provisional measures".[319] The orders made no finding of genocide. In its first order the Court said: "At the present stage of the proceedings, the Court is not required to ascertain whether any violations" of the Convention had occurred, and "[s]uch a finding could be made by the Court only at the stage of the examination of the merits of the present case".[320] Judge Joan Donoghue, who presided over the Court when that order was made, said afterwards that the Court "did not decide that the claim of genocide was plausible".[321] The recommendation does not say in terms that the Court found genocide. It places the Commission's own allegation beside the Court's orders, so that the reader takes the one for the other.
- **Human rights law.** The Commission asks Israel to "Comply fully with international humanitarian and human rights law in military and law enforcement operations, and cease targeting civilians".[322] Both parts assume what the Report has not shown. Israel's position, as the Human Rights Committee records, is that the International Covenant on Civil and Political Rights is "a territorially bound treaty", and that human rights law does not apply where international humanitarian law does.[323] The ICJ disagrees, but has also held that in armed conflict international humanitarian law applies as the *lex specialis*: whether a killing in hostilities is arbitrary "can only be decided by reference to the law applicable in armed conflict".[324] The Report mentions neither the dispute nor that rule. It treats Israel's operations in Judea and Samaria as law enforcement without showing that they are (Part Seven), and its finding that Israel has violated human rights law in Gaza is a single sentence, which refers the reader back to its findings on Judea and Samaria ("see above, paragraph 53").[325] Finally, the call to "cease targeting civilians" presents the Report's allegation as established fact.
- **Land and security zones.** The Commission asks Israel to "End and reverse confiscation and appropriation of Palestinian property and reservation of Palestinian

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[318] *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, paras. 267, 268, 270 and 285(4) and (5): https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-00-en.pdf.

[319] Report, section VI, recommendation (b) to the Government of Israel.

[320] *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip* (*South Africa v. Israel*), Order of 26 January 2024, para. 30: https://api.icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-00-en.pdf.

[321] Interview with the BBC (HARDtalk), 25 April 2024, as reported by The Jerusalem Post, 26 April 2024: https://www.jpost.com/israel-hamas-war/article-798766.

[322] Report, section VI, recommendation (c) to the Government of Israel.

[323] Human Rights Committee, Concluding observations on the fourth periodic report of Israel, CCPR/C/ISR/CO/4, 21 November 2014, para. 5: https://docs.un.org/en/CCPR/C/ISR/CO/4.

[324] Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion of 8 July 1996, para. 25: https://www.icj-cij.org/sites/default/files/case-related/95/095-19960708-ADV-01-00-EN.pdf; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion of 9 July 2004, paras. 106 and 111: https://www.icj-cij.org/sites/default/files/case-related/131/131-20040709-ADV-01-00-EN.pdf.

[325] Report, para. 57.

land for military purposes, including during military operations in the Occupied Palestinian Territory for the creation of buffer zones, corridors and access".[326] The law of occupation permits requisition "for the needs of the army of occupation" and the destruction of property where "absolutely necessary by military operations".[327] The Comprehensive Plan endorsed by the Security Council in resolution 2803 (2025) provides that Israeli forces will withdraw "based on standards, milestones, and timeframes linked to demilitarization", and that a "security perimeter presence" will remain "until Gaza is properly secure from any resurgent terror threat".[328] The recommendation would deny Israel measures that the law allows, and that in Gaza the Security Council has endorsed, while Hamas refuses to disarm.

Conclusion

138. The Commission asks the world to accept that Israel has committed genocide in Gaza and extermination and persecution in Judea and Samaria, and it asks the Prosecutor of the ICC to examine those crimes with a view to amending the existing arrest warrants and seeking new ones. A reader who follows the footnotes finds a different document. Statements by Israeli officials are cut in half and made to say what their authors did not. One detainee's unverified account, repeated from paper to paper, ends up as an example of the conduct from which genocidal intent is inferred. Sources cited for a proposition record the opposite. Seventy-two statements carry no source at all. A finding that children are targeted for their age rests on a paper that infers a policy of targeting boys as "future terrorists" from the number of boys killed and a single remark about a single boy. Israel's account is dismissed where it is mentioned and omitted where it is not, together with the investigations Israel opened. Single cases, stripped of the facts that would explain them, are offered as proof of a "widespread and systematic" attack. The Report leaves out what Hamas did on 7 October, the hostages, the United Nations' own findings of sexual violence against Israelis, Hamas's declared intent to kill Jews, its practice of fighting from hospitals and among civilians, and the reports of its use of human shields to which the Secretary-General has referred. Most of the "findings" the Report builds on were made under a chair who had called for sanctions against Israel and with a member whose remarks drew condemnation from Western governments. And every conclusion is reached on a standard of proof that the Commission itself has acknowledged is not the standard international law requires for the findings it makes. Many of them do not meet even the standard that the Commission claims to apply.

139. The Commission was asked to investigate. Instead, it has built a case for the prosecution and then decided it. Quotations cut from their context, sources read against their plain meaning, and leaps from incident to intent are not accidents when they recur on this scale and all run the same way. Together they turn the record upside down: the State attacked on 7 October becomes the perpetrator of the gravest crimes in international law, and the organisation that attacked it all but disappears from the Report. What the General

[326] Report, section VI, recommendation (g) to the Government of Israel.

[327] Regulations annexed to the Hague Convention (IV) of 1907, art. 52: https://ihl-databases.icrc.org/en/ihl-treaties/hague-conv-iv-1907/regulations-art-52; Fourth Geneva Convention, art. 53: https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-53.

[328] Security Council resolution 2803 (2025), 17 November 2025, para. 1, and annex 1 (Comprehensive Plan to End the Gaza Conflict, 29 September 2025), para. 16: https://docs.un.org/en/S/RES/2803(2025). The resolution was adopted by 13 votes to none, with China and the Russian Federation abstaining: https://press.un.org/en/2025/sc16225.doc.htm.

Assembly has before it is partisan advocacy presented as findings. No State, court or prosecutor should mistake it for anything else.