

Widespread torture of Palestinian children used as human shields by the Israeli military

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Abstract

Background: Israel's occupation, apartheid and blockade of the Gaza Strip have always exposed Palestinian children to traumatic experiences. Their trauma has been exacerbated since 7 October 2023 through different practices by the Israeli military, including the well-established and institutionalised use of Palestinians as human shields. *Methods:* The article provides details on four recent incidents throughout the Occupied West Bank, where Israeli soldiers have deliberately targeted and forced Palestinian children into being human shields. Drawing also from testimonies collected by other organisations, it explains how each incident affected these children, both physically and mentally. *Results:* Children reported significant long-term trauma they sustained after being used as human shields, sometimes for several hours, as well as the pain they felt while being beaten repeatedly by Israeli soldiers. *Discussion:* The legal analysis demonstrates how such acts qualify as torture. It further examines how Israel's indiscriminate attacks targeting Palestinian civilians who Israel claims are shielding military objectives give rise to terror and may amount to inhumane treatment. It finally and briefly expands the scope of analysis to discuss how Israel's acts in using Palestinian civilians as human shields fit into the ongoing genocide against the Palestinian people.

Keywords: human shields, torture, trauma, children.

Introduction

For decades, Palestinian children living in the Occupied Palestinian Territory (OPT) and subjugated under Israel's settler colonial apartheid regime have been routinely harassed, arbitrarily arrested and detained, and mistreated or killed by Israeli soldiers. Since 7 October 2023, Israel has continued its practices of using Palestinians as human shields. Israeli violations against Palestinian children include in particular systematic incidents where Israeli soldiers have deliberately coerced Palestinian children into being human shields, for various purposes, such as walking in front of them, shielding Israeli forces from hostile fire, removing suspicious objects from the road, asking Palestinian residents to

come out of their homes and standing inside Palestinian houses where soldiers have set up military positions, so that Palestinian armed groups will not fire at the soldiers (Meloni & Tognoni, 2012). The pattern is often accompanied by arbitrary detentions, beatings to obtain information on members of the Palestinian resistance and the use of intimidating methods, including the presence of police attack dogs.²

Such horrific experiences have had adverse effects on the mental health of Palestinian children - some of whom were not

1 To protect the authors from potential retaliation, this article is published under fictitious names. Their legal identities and affiliations are securely held by the editorial office, which has verified authorship and disclosures. The use of pseudonyms does not affect the integrity, provenance, or accountability of the research and the peer-review process.

* The views expressed are those of the authors and do not necessarily reflect those of the Journal, the Publisher or the Editors

2 UNRWA, UNRWA Situation Report #169 on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem (1 May 2025), <https://www.unrwa.org/resources/reports/unrwa-situation-report-169-situation-gaza-strip-and-west-bank-including-east-jerusalem> Defence for Children International – Palestine (DCI-P), "They were trying to exterminate us": Palestinian children in Gaza tortured by Israeli military (21 August 2024), https://www.dci-palestine.org/_they_were_trying_to_exterminate_us_palestinian_children_in_gaza_tortured_by_the_israeli_military

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older than nine - who are still suffering from trauma caused by the fear of being directed by Israeli soldiers holding their weapons.³

Israel's use of this practice as part of this genocide is described by one former Israeli soldier, Nadav Weiman, who is now director of Breaking the Silence, an Israeli civil society organisation exposing the crimes committed by the Israeli military, stating:

From what we understand it was a very widely used protocol, meaning there are hundreds of Palestinians in Gaza who have been used as human shields. Palestinians are being grabbed from humanitarian corridors inside Gaza ... and then they're being brought to different units inside Gaza – regular infantry units, not special forces And then those Palestinians are being used as human shields to sweep tunnels and also houses. In some cases, they have a GoPro camera on their chest or on their head and in almost all of the cases, they are cuffed before they are taken into a tunnel or house to sweep and they are dressed in IDF uniform.⁴

Since 7 October 2023, Al-Haq has collected a number of testimonies describing new instances of the use of Palestinian children as human shields across the OPT, reflecting an increase thereof in the midst of Israel's genocide against the Palestinian people.

Background

During the Second Intifada, in 2002, the Israeli military's use of Palestinian civilians as human shields became an open military policy.⁵ Forcing Palestinian civilians to search apartments, scan booby trapped buildings and other locations is well-established practice in the Israeli military and is known as the "Johnnie procedure" or the "neighbour" procedure.⁶ Israel's practice of using Palestinian children to remove explosive devices during the Second Intifada, was explained in a testimony collected by

the NGO Breaking the Silence from a Major in a reserve unit assigned to Bethlehem:

We reached the first area where there were pipe bombs, the man from the bomb clearing unit says to me: okay, have a look inside the houses here, find a few kids, call them out to come and collect all the pipe bombs, put them all in a heap, we'll blow them up and go. My question to him was very very simple: is it dangerous? He said to me: yes. I said: okay, is it dangerous enough for something to happen? He said to me: yes. I said to him: so they can't do it, the kids, because it blows up. He said: no, it's not very dangerous. I said: If it's not very dangerous, then fine, I see there are three of you here, each one of you can pick up a few, put them in a heap, blow them up and then we'll go.

For context, the technical officer further outlined that:

For three weeks now, that's what we do, everybody agrees to do it, why are you suddenly hardheaded? And I asked him what he meant to say? He said to me: We're here three weeks. Every time we find an area with explosives, pipe bombs, we take out a few kids from the nearby houses, they collect the explosives for us, we blow them up and that way we finish our day by eleven [in the morning] instead of five [in the afternoon].⁷

Israel's High Court of Justice subsequently ruled *Adalah et al., v GOC Central Command, IDF* in October 2005 that any use of Palestinians for military actions was forbidden as it was illegal under international law.⁸ This case concerned a petition launched by seven human rights organisations against a new procedure replacing the "neighbour procedure", described in the judgement as follows: *Israeli soldiers wishing to arrest a Palestinian suspected of terrorist activity may be aided by a local Palestinian resident, who gives the suspect prior warning of possible injury to the suspect or to those with him during the arrest.*⁹ The "prior warning procedure" can be used when the civilian consents to helping the soldiers without being subjected to force or threatened with violence or arrest and if the commander of the

3 DCI-P, Israeli forces use Palestinian children as human shields during siege of hospital (23 September 2024), https://www.dci-palestine.org/israeli_forces_use_palestinian_children_as_human_shields_during_siege_of_hospital.

4 The Guardian (2024), *Palestinians describe being used as 'human shields' by Israeli troops in Gaza*, https://www.theguardian.com/world/2024/oct/21/palestinians-describe-being-used-as-human-shields-by-israeli-troops-in-gaza?CMP=share_btn_url.

5 B'Tselem (2017), *Human Shields*, https://www.btselem.org/human_shields.

6 United Nations General Assembly, "Report of the United Nations Fact-Finding Mission of the Gaza Conflict", 25 September 2009, A/HRC/12/48, para. 1093.

7 Breaking the Silence (2002), *Find a few kids, call them out to come and collect all the pipe bombs, put them up and go*, <https://www.breakingthesilence.org.il/testimonies/database/147799>.

8 HCJ 3799/02, *Adalah et al., v GOC Central Command, IDF et al.*, (23 June 2005), <https://www.legal-tools.org/doc/762ab3/pdf/>

9 High Court of Justice (2005), *Adalah et al. v. GOC Central Command, IDF et al.* HCJ 3799/02, p. 1.

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force believes that it will not endanger the civilian.¹⁰ Despite the ruling, Israeli soldiers continued to routinely use Palestinian civilians as human shields, including during so-called Operations Cast Lead (2008-2009)¹¹ and Protective Edge (2014).

During Operation Cast Lead in 2008, the Israeli military “coerced Palestinian civilian men at gunpoint to take part in house searches during the military operations. The men were blindfolded and handcuffed as they were forced to enter houses ahead of Israeli soldiers”, as evidenced by published testimonies of Israeli soldiers who took part in the military operations. The 2009 United Nations Fact Finding Mission on the Gaza conflict (UN FFMGC) concluded “that this practice amounts to the use of Palestinian civilians as human shields”.¹² The “neighbours procedure” also known as the “Johnnie procedure”, forced Palestinians to:

Walk through and scan buildings suspected to be booby-trapped, and in which it ordered them to enter certain areas before combat forces, in order to find wanted persons there; also described are cases in which the army used residents as a ‘human shield’ which accompanied the combat forces, to serve as a shield against attack on those forces. Thus, residents were stationed on porches of houses where soldiers were present, in order to prevent gunfire upon the houses.¹³

As explained by the Israeli organisation B’Tselem, such “use of civilians is not an independent initiative by soldiers in the field but the result of a decision made by senior military authorities.”¹⁴ The vast majority of these use of human shields “were never investigated, and those that did resulted in no further action. Soldiers were prosecuted in one case only . . . were given a three-month conditional sentence” and “none of their commanding officers were tried”.¹⁵

Israel continued to use this practice,¹⁶ in particular in 2014 during Operation Protective Edge in Gaza, and no Israeli soldier or commander was prosecuted.¹⁷ As documented by the human rights organisations Lawyers for Palestinian Human Rights and Al-Mezan, “at least five Palestinians in Gaza, including a child, had their lives endangered when used as human shields by Israeli military forces” as part of this operation.¹⁸ According to their report,

The five incidents [...] are part of a pattern of reported human shield use against Palestinian civilians by Israel’s military forces over a number of years that has effectively gone unpunished. This state of affairs is indicative of there being an established practice or policy of Israel’s military to use Palestinian civilians as human shields.¹⁹

On 13 May 2022, Israeli soldiers blew up the door of Muhammad and Manal Mer’eb’s apartment in the al-Hadaf neighbourhood in Jenin. Shortly after, an exchange of fire arose between Israeli soldiers and armed Palestinians, including Mahmoud Mer’eb, who Israeli soldiers attempted to draw out of the house. During this attempt, they used his sister ‘Ahd aged 16 and his grandmother as human shields. Ahd recalled:

After 10 minutes, one of the Border Police officers ordered us to move a few meters and sit on the edge of a concrete wall that belongs to one of the houses. We sat there for about 15 minutes, and then the military opened fire at our house. My younger brothers cried and screamed in fear. My mother asked one of the Border Police officers to let us move away so we could be safe and so she could calm my younger brothers down. I was also terribly scared of the shooting.²⁰

10 B’Tselem (2017), *Human Shields*, https://www.btselem.org/human_shields.

11 Al Mezan, (9 April 2009), The Use of Palestinian Civilians as Human Shields by the Israeli Occupation Forces <https://mezan.org/public/en/post/37718/The-Use-of-Palestinian-Civilians-as-Human-Shields-by-the-Israeli-Occupation-Forces>.

12 United Nations General Assembly, “Report of the United Nations Fact-Finding Mission of the Gaza Conflict”, 25 September 2009, A/HRC/12/48, para. 55, 1032-1106.

13 United Nations General Assembly, “Report of the United Nations Fact-Finding Mission of the Gaza Conflict”, 25 September 2009, A/HRC/12/48, para. 1093.

14 B’Tselem, “Human Shields”, 11 November 2017, available at: https://www.btselem.org/human_shields.

15 Ibid.

16 Human Rights Council, “Anatomy of a Genocide- Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese”, 25 March 2024, A/HRC/55/73, para. 59.

17 B’Tselem, “Human Shields”, 11 November 2017, available at: https://www.btselem.org/human_shields.

18 Lawyers for Palestinian Human Rights and Al-Mezan, “Justice Denied-Gaza human shield survivors and the systematic failure of Israel’s military investigation system to provide accountability”, September 2018, p.1.

19 Ibid.

20 B’Tselem (2022), *Border Police officers use members of Jenin family as human shields*, https://www.btselem.org/human_shields/20220619_border_police_officers_use_members_of_jenin_family_as_human_shields.

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In 2023, before October 7, human rights organisations once again documented further acts of the Israeli military using Palestinian civilians as human shields in the West Bank. In the first half of 2023, Israeli soldiers used at least five Palestinian children, including two toddlers, as human shields.²¹ In a further attack on 4 July 2023, Israeli soldiers raided the Jenin refugee camp. They stopped an ambulance, ordering two Palestinian paramedics out and using them as protection against Palestinian shooting for more than half an hour.²² (Shawer, 2024).

Methods

The information provided in this paper was primarily extracted from field investigations conducted by trained field researchers of Al-Haq's Monitoring and Documentation Department, as well as testimonies collected from 7 May to 16 September 2024 from persons who have been victims of the documented alleged violations (first-hand interviews) or direct eyewitnesses. Cases were purposively selected where the alleged victim was a minor when he or she was coerced into being a human shield by Israeli soldiers. The information was obtained in the presence of one of the children's parents, and the interviewees were informed that their testimonies could be used for advocacy and accountability purposes and authorised Al-Haq to do so. Affidavits were taken by Al-Haq Field Researchers who have special training. In terms of our analytical approach, we used structured extraction and thematic synthesis (physical harm, trauma). Records are stored offline in a secure databank and managed by Al-Haq's Monitoring and Documentation Department. Photographic evidence is additionally preserved by EyeWitness to Atrocities for court-standard accountability purposes.

Results

Al-Haq documented several incidents where Palestinian children were used as human shields. (Al-Haq, 2025). Some of them occurred in the Tulkarem Refugee Camp, in the West Bank.

Palestinian child, K.A., aged 11, told Al-Haq that Israeli soldiers forced him to walk in front of them and open the doors of an apartment on 6 May 2024. He further recalled:

The soldiers began searching the apartment, and during that, one of them asked me in understandable Arabic if there were any men in the house. I told him, "No." Here, that soldier forced me, accompanied by other soldiers, to walk in front of them inside the apartment and open the closed doors.

I cannot describe my feelings and the intensity of fear that I felt while the soldiers were taking me from inside the apartment... Then they forced me to walk down the stairs to the main entrance of the building and to the first floor of the building. I was walking among about 20 soldiers, all of them armed...

He also recounted how Israeli soldiers severely beat him with wooden sticks as he was used as a human shield, insinuating that he was a member of an armed Palestinian group, while placing police dogs in close proximity to him: "I was crying from the intensity of the pain and fear".

Also on 6 May 2024, Palestinian child M.M, aged 13, was forced to act as a human shield by Israeli soldiers during the Israeli military's raid on Tulkarm refugee camp, and was subjected to the same pattern of beatings. He recalled:

[T]he soldiers asked me to knock on the door of the apartment on the second floor... blew up the door of the apartment and then forced me to enter it and search if anyone was inside, which I did, as the soldiers were standing behind me. Then the soldiers entered the apartment and searched it, during which time I was detained by one of the soldiers in front of the entrance to that apartment, where the soldier who was detaining me beat me with a stick in his possession...

I received several blows from him on my lower limbs and back, then he directed several blows with his hands to my head and face. He was asking me in understandable Arabic about the whereabouts of the Kutba members, meaning the Palestinian gunmen belonging to what is known as the Tulkarm Camp Battalion, and whenever I told him that I did not know, he struck me sometimes with the stick and sometimes with his hands, amidst my crying, fear, and pain... One of the police dogs accompanying the soldiers was always close to my body, but the soldiers were placing an iron cage over the mouth of that dog. However, seeing that dog caused me more fear.

Another Palestinian child, I.A., aged 15, was used as a human shield by Israeli soldiers during their raids of Al-Sawalmeh neighbourhood in the Tulkarm refugee camp, on 6 May 2024:

21 Defence for Children International-Palestine, (18 May 2023) "Israeli forces use five Palestinian children as human shields", https://www.dci-palestine.org/israeli_forces_use_five_palestinian_children_as_human_shields.

22 Mosab Shawer, (31 January 2024) "West Bank human shield describes "100 breathless minutes" held by Israel", Al-Jazeera, <https://www.aljazeera.com/features/2024/1/31/west-bank-human-shield-describes-100-breathless-minutes-held-by-israel>.

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During that field investigation, I was beaten by some of the soldiers who hit me with their hands all over my body... The Israeli soldiers used me as a human shield for a period ranging between an hour and a half and two hours... I felt fear and extreme danger to my life all that time.

Further, on 29 August 2024, Palestinian child M.S., aged 9, was forcibly removed by Israeli soldiers from his home in Nur Shams refugee camp in Tulkarm and forced to open doors for soldiers who also used military dogs in the camp:

[The Israeli soldiers] got everyone out of the house except me. They kept me with them and told me to go and open the door in Arabic. They were behind me, ready to shoot. I actually went towards the door and tried to open the door, but I couldn't. I told them that I couldn't open the door. However, one of the soldiers repeated his request for me to open the door and said to me, "Go back and open the door"...

[The soldiers] brought a dog behind me who was with the soldiers after removing the muzzle from its mouth. I saw that and the soldiers were calling the dog by the name 'Lucy'. I went into that room and the dog entered from behind me and started smelling everything inside the room. Then it started smelling me by getting close to my body. At that time, I felt very afraid.

Palestinian children who have been subject to inhuman and degrading treatment are also suffering from trauma. In Gaza, Mohammad Shbeir, aged 17, who was taken captive and used as a human shield by Israeli soldiers, recounted: "I was handcuffed and wearing nothing but my boxers" (CNN, 2024). Forced to walk ahead of Israeli soldiers in the Gaza Strip, in December 2023, Ahmed, 16, recalled: "We were so scared that we might be killed at any second. They were beating us with their weapons telling us to keep moving". Ahmed and his cousin, Shadi, 11, were used as human shields for half a day. Shadi's father observed that his son was struggling with post-traumatic stress disorder (PTSD), described by Shadi in the following terms: "I was going to the bathroom all the time, I was so scared to go on my own. I dream that soldiers are coming to take me and hit me".²³

23 Independent, (2024), *Stripped and held at gunpoint, the Gaza schoolboys forced to be Israel's human shields*, <https://www.independent.co.uk/news/world/middle-east/israel-human-shields-gaza-war-b2604589.html>.

Treating the entire Palestinian population in Gaza as human shields

It should further be noted that Israel has treated the entire population in Gaza, including children, as human shields, for their location or presence near objects, which Israel considers to be "shielding" of military objectives and therefore it asserts, are targetable. In November 2023, Israel's Ministry of Foreign Affairs referred to "the residents of the Gaza Strip as human shields" and accused Hamas of using "the civilian population as human shields".²⁴ As noted by the United Nations Special Rapporteur on the Occupied Palestinian Territory in her report, "[t]wo rhetorical elements of this key legal policy document indicate the intention to transform the entire Gaza population and its infrastructures of life into a "legitimate" targetable shield: the use of the all-encompassing the combined with the quotation marks to qualify civilians and civilian objects".²⁵ Following its military orders given on 13 October 2023 to 1,1 million Palestinians in the north of Gaza to move south, Israel warned that "[a]nyone who chooses not to evacuate from the north of the Gaza Strip to its south may be identified as a partner in a terrorist organization".²⁶ Notably, Israel's High Court of Justice, previously found in 2006 that should civilians decide to stay in combat areas, they do so of their own free will, out of support for the terrorist organization, they should be seen as persons taking direct part in the hostilities".²⁷ More recently, Israel's Prime Minister Netanyahu, stated on the social media platform 'X', Israel's position on targeting human shields, stating:

This is why I authorized yesterday the renewal of military action against Hamas. Israel does not target Palestinian civilians. We target Hamas... And when [Hamas] embed themselves in civilian areas, when they use civilians as human shields, they are the ones who are responsible for all unintended casualties... Palestinian civilians should avoid any contact with Hamas..., and I call on the people of Gaza,

24 State of Israel, Ministry of Foreign Affairs, (2 November 2023) "Hamas-Israel Conflict 2023: Key Legal Aspects", <https://www.gov.il/en/pages/hamas-israel-conflict2023-key-legal-aspects>

25 Human Rights Council, "Anatomy of a Genocide"- Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, 25 March 2024, A/HRC/55/73, para. 60.

26 Olivia Alafiz and Giselle Ruhiyyih Ewing, (21 October 2023) "Israeli military steps up warnings to north Gaza residents, preparations for ground offensive", Politico, <https://www.politico.com/news/2023/10/21/idf-prepares-for-ground-invasion-00122881>.

27 High Court of Justice of Israel, *The Public Committee v. The Government of Israel*, Judgment, 14 December 2006, para. 36.

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get out of harm's way. Move to safer areas. Because every civilian casualty is a tragedy and every civilian casualty is the fault of Hamas.²⁸

Discussion

The use of human shields is a method of warfare prohibited by international humanitarian law (IHL). It takes advantage of the presence or movements of civilians, whether voluntary or involuntary, to shield military objectives or combatants from an attack, or to shield, favour or impede military operations.²⁹ It is important to note that IHL strictly prohibits the use of human shields. As the Geneva Convention state, “the presence or movements of the civilian population or individual civilians shall not be used to render certain points or areas immune from military operations, in particular in attempts to shield military objectives from attacks or to shield, favour or impede military operations. The Parties to the conflict shall not direct the movement of the civilian population or individual civilians in order to attempt to shield military objectives from attacks or to shield military operations.”³⁰

In terms of “presence”, one must understand situations where “civilians are placed on or close to military objectives and those where military objectives are placed in the midst of civilians”. (Bouchié de Belle, 2008). Article 23 Geneva Convention III Relative to the Treatment of Prisoners of War (CG III) and Article 28 of Geneva Convention IV Relative to the Protection of Civilian Persons in Times of War (CG IV) respectively prohibit the use of prisoners of war and civilians to “render certain points or areas immune from attack”.

Article 51(7) of Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (AP I), which has attained customary status (Henckaerts et al., 2012), expands the scope of this protection. It reads:

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

In terms of applicability, Israel's recognition of the customary status of this rule, as well as that of many provisions of AP I, renders its failure to ratify it irrelevant.³¹

The wording of “Article 57(1) shows (“shall not be used to render”, “in order to attempt to shield”), that an intention to use the civilian population in order to shield an area from military attack is required.”³² In this respect, the ICTY found that “the perpetrator must intend to shield a military objective from attack or shield, favour or impede military operations”.³³ Belligerents can only attack objects which “by their nature, location, purpose or use make an effective contribution to military action”, whose “total or partial destruction, capture or neutralization” in the circumstances ruling at the time “must offer a definite military advantage”. Paragraph 3 of this provision adds that “[i]n case of doubt”, an object “shall be presumed not to be so used”.³⁴ Israel has also grossly misused these rules.

In this vein, Israel's claims that armed groups fighting from urban areas as deliberately “embedded” in the population to such an extent that it “cannot be concluded from the mere fact that seeming ‘civilians’ or ‘civilian objects’ have been targeted, that an attack was unlawful”,³⁵ this interpretation defeats the purpose of the above legal framework. It reverses the presumption of civilian status in case of doubt, which should deter an attack on areas where the overwhelming majority of the popu-

28 Prime Minister of Israel @IsraeliPM, Tweet (7:15 pm, 18 March 2025), <https://x.com/IsraeliPM/status/1902076306533314722>

29 International Committee of the Red Cross, “How does the law protect in war”, https://casebook.icrc.org/a_to_z/glossary/human-shields.

30 Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflict (Protocol I), 8 June 1977, Art. 51(7); see also Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949 (“Fourth Geneva Convention”) Article 28; ICRC, IHL Database, Customary IHL, Rules 97, available at: https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul.

31 Human Rights Council, “Report of the Detailed Findings of The Independent Commission of Inquiry Established Pursuant to Human Rights Council Resolution S-21/1,” 24 June 2015, UN Doc A/HRC/29/52 (2015 COI), para. 24.

32 United Nations General Assembly, “Report of the United Nations Fact-Finding Mission of the Gaza Conflict”, 25 September 2009, A/HRC/12/48, para. 493; see also 2015 COI, para 470.

33 ICTY, *Prosecutor v Karadzic* (Trial Judgment) IT-95-5/18, 24 March 2016, para. 526.

34 Protocol I, Article 52 (2) and (3); ICRC, IHL Database, Customary IHL, Rule 8, available at: https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul/.

35 State of Israel, Ministry of Foreign Affairs, (2 November 2023) “Hamas-Israel Conflict 2023: Key Legal Aspects”, <https://www.gov.il/en/pages/hamas-israel-conflict2023-key-legal-aspects>.

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lation is civilian. Moreover, treating the entire northern area of Gaza as one single military objective blatantly violates the principle of distinction and amounts to an indiscriminate attack.³⁶ Indeed, Article 51(5)(a) of Additional Protocol I provides that “an attack by bombardment by any methods or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian object” is to be regarded as “indiscriminate”. Further such attacks and acts of violence which spread terror, including indiscriminate and widespread shelling, are prohibited under Article 51(2) of Additional Protocol I.³⁷

International human rights

According to Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to qualify as torture, the conduct must (a) inflict severe psychological and physical pain or suffering, (b) be committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity, (c) with intent and (d) the purpose of discrimination and punishing or obtaining from the victim or a third person information or a confession.

The different Israeli practices consisting of the use of Palestinian children as human shields, as described above, generally involve both mental and physical pain. As outlined in Al-Haq’s cases above, Palestinian children K.A., M.M. and I.A. were all severely beaten by Israeli soldiers, with their hands or a stick, in particular in the case of I.A., who was hit on multiple occasions. Furthermore, the fact of the attacks taking place in the context of a decades-long unlawful belligerent occupation and genocide in the Gaza Strip, exposes children to “continuous cycles of violence and trauma, profoundly affecting their mental health” resulting in psychological impacts with long-term consequences (WHO et al, 2025), exacerbated even further by their use as human shields. Shadi still has PTSD and nightmares recurring from the abduction and beating he was subjected to. In addition, the use of aggressive police dogs, sometimes without their muzzle, searching in close proximity to the children, also played a crucial role in terrorising them. The child M.M., re-

called how he was particularly affected by the shot fired by the Israeli soldier just above his shoulder.

Considering the circumstances, the age of the children, their inability and that of their parents, to defend themselves against Israeli soldiers armed with military weapons and dogs — as well as the context of Israel’s settler colonial apartheid regime, belligerent occupation and genocide — it is beyond dispute that the fear we are discussing does not constitute mere pain but meets the threshold of severe pain or suffering as required by Article 1 of the Convention against Torture. The first criterion is thus established. That the pain or suffering must be inflicted by a person acting in an official capacity is clearly established in the case of the Israeli soldiers. The second element is thus satisfied as well. As for the third criterion, the intent to torture, this can be inferred from the context, Israeli soldiers raiding Palestinian homes, which is a common practice, and using the children for specific purposes. It is plain that the soldiers meant to cause fear among the children, so they could deploy them as human shields. It is also plain that they intended to hit the Palestinian children for the same purpose.

Finally, the perpetrator must inflict pain or suffering to punish, discriminate or obtain information. The context of the Israeli occupation of the Palestinian territory, characterised by decades of implementation of a regime of institutionalised racial segregation and apartheid discriminating against Palestinians,³⁸ leaves little doubt about the discrimination of Palestinian children in the cases at hand, because they are Palestinians. The raids of Palestinian homes are only one manifestation of Israeli discriminatory policies. Furthermore, K.A.’s testimony indicates that the soldiers were after information on suspected

36 Al-Haq, (13 October 2023) “Urgent: Israel’s Evacuation Order to 1.1 Million Palestinians in Gaza is Direct Forcible Transfer, Urgent Intervention is Needed”, <https://www.alhaq.org/advocacy/21896.html>.

37 ICRC, IHL Databases, Rule 2. Violence Aimed at Spreading Terror among the Civilian Population, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule2>

38 Committee on the Elimination of Racial Discrimination (“CERD”), Concluding Observations on the Combined Seventeenth to Nineteenth Reports of Israel, CERD/C/ISR/CO/17-19, 27 January 2020, <https://undocs.org/CERD/C/ISR/CO/17-19>, para. 23; UN HRC, Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Michael Lynk, A/HRC/49/87, 12 August 2022, <https://undocs.org/A/HRC/49/87>, para. 52; Amnesty International, (2022), “Israel’s Apartheid Against Palestinians A Look Into Decades of Oppression and Domination” <https://www.amnesty.org/en/latest/news/2022/02/israels-apartheid-against-palestinians-a-cruel-system-of-domination-and-a-crime-against-humanity/>; B’Tselem, (12 January 2021) “A regime of Jewish supremacy from the Jordan River to the Mediterranean Sea: This is apartheid”, https://www.btselem.org/publications/fulltext/202101_this_is_apartheid; Addameer et al., (29 November 2022) “Israeli Apartheid: Tool of Zionist Settler Colonialism”, https://www.alhaq.org/ cached_uploads/download/2022/12/22/israeli-apartheid-web-final-1-pageview-1671712165.pdf.

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members of a Palestinian armed group. All the criteria of the crime of torture are thus satisfied, leading to the conclusion that the conducts documented in the paper qualify as torture.

In terms of context, these acts constitute crimes against humanity to the extent that they are part of an attack against a civilian population and connected to a State's policy, Israel's policy of discrimination and oppression of the Palestinian people. They also constitute war crimes as they are committed in the context of an international armed conflict and against protected person as per the Fourth Geneva Convention, namely Palestinian civilians.

In Gaza, such use and targeting of Palestinian children as human shields can be considered as genocidal acts. Genocide is defined as acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such.³⁹ These acts include "*causing serious bodily or mental harm to members of the group*".⁴⁰ This underlying crime is similar to the material element of torture as analysed above.

In *South Africa v Israel*, the International Court of Justice (ICJ) concluded that Israel is carrying out acts in Gaza that amount to a "plausible case" of genocide.⁴¹ To reach this conclusion, the ICJ noted that the Israeli military had killed 25,700 Palestinians in Gaza, injured 63,000 others and destroyed or partially damaged 360,000 housing units.⁴² In 2025, the situation in Gaza has deteriorated to a horrific point. In total, on 3 September 2025, the Israeli military had caused the death of 63,746 Palestinians, injured 161,245 others and destroyed or damaged 436,00 housing units (92%) in Gaza.⁴³ These figures and facts can only reinforce the ICJ's conclusion of a plausible case of genocide. The terrorisation of Palestinians used and targeted as human shields is part and parcel of this genocide. The requisite intent can be inferred where this is the only reasonable inference to be made, but only in the absence

of direct evidence thereof.⁴⁴ This understanding is corroborated by the International Criminal Court's Elements of Crimes which similarly requires a finding of intention.⁴⁵

Since 7 October 2023, Israel has repeatedly stated that it complies with IHL as opposed to Hamas it accused of hiding behind civilians and civilian objects. This misleading rhetoric is incorrect. The report of the 2015 Commission of Inquiry concluded that Hamas "encouraging the population of Gaza to remain in conflict zones, as opposed to evacuation to safer areas... was not representative of a violation of the prohibition on the use of human shields in the absence of such an intent."⁴⁶ A distinction was drawn between the wilful use of human shields and acts which have a mere shielding effect but deprived of the requisite intent.

Using this narrative, Israel has treated the whole population of the Gaza Strip as a single military objective and, therefore, legitimate targets, which has led to the abovementioned significant death toll. As denounced by Francesca Albanese in her report "Anatomy of a genocide", the "Israeli executive and military leadership and Israeli soldiers have intentionally distorted jus in bello principles, subverting their protective functions, in an attempt to legitimize genocidal violence against the Palestinian people".⁴⁷

More generally, it can be supported that Israeli raids are intended not only to terrorise the Palestinian population, but also to deter any resistance to Israel's occupation and apartheid of the Palestinian territory, the illegality of which has been determined by the International Court of Justice in its 19 July 2024 Advisory Opinion.⁴⁸ Deterring such resistance facilitates the advancement of Israel's settler-colonial project in the OPT, which in turn leads to the eradication of the Palestinian people.

39 UN Office of the High Commissioner for Human Rights (OHCHR), Convention for the Prevention and Repression of the Crime of Genocide (Genocide Convention) (1948), Article II.

40 Genocide Convention, Article II (b).

41 *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), Provisional Measures, Order of 26 January 2024, I.C.J. Reports 2024*, p. 3, para. 54.

42 Ibid, para. 46.

43 UN Office for the Coordination of Humanitarian Affairs, "Reported impact snapshot-Gaza Strip (3 September 2015)", 3 September 2015, available at: <https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-3-september-2025>.

44 International Criminal Tribunal for the former Yugoslavia, Prosecutor v Mladić (Trial Judgment) IT-09-92, 22 November 2017, para. 3382.

45 Elements of Crimes, adopted by the Assembly of States Parties to the International Criminal Court (ICC), 9 September 2002, Article 8 (2) (b) (xxiii), "The perpetrator intended to shield a military objective from attack or shield, favour or impede military operations."

46 Human Rights Council, "Report of the Detailed Findings of The Independent Commission of Inquiry Established Pursuant to Human Rights Council Resolution S-21/1.", 24 June 2015, UN Doc A/HRC/29/52 (2015 COI), para. 482.

47 Human Rights Council, "Anatomy of genocide- Report of the Special Rapporteur on the situation of human rights in the Palestinian territories, Francesca Albanese", 1 July 2024, A/HRC/55/73, page 1.

48 *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion, 19 July 2024.

B.

Conclusion

The paper provides the contextual background of the use of Palestinians as human shields, including the practice whereby Israel characterises the entire population in Gaza including children as shielding military objectives. It then delves into the individualised use of the practice of shielding against Palestinian children, with concrete incidents and testimonies collected by Al-Haq, among other organisations. These incidents have caused significant trauma to Palestinian children, in addition to the arbitrary beatings they were subjected to. As such, they qualify as acts of torture, meeting all the requirements enshrined in the Convention against Torture. They further constitute war crimes, crimes against humanity and acts of genocide.

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