

**Declaration of the Belgian Society of International Law concerning the conflict in Gaza and the imperative, unconditional and immediate compliance with international law**

**Adopted by the Board of Directors of the Society on 13 November 2023**

At the time of writing, hundreds of Israeli hostages have been held captive for more than a month by Hamas, which is responsible for massacres and mutilations that have caused more than 1,000 civilian deaths and hundreds of injuries on 7<sup>th</sup> October 2023. Hamas has been firing rockets indiscriminately against Israeli communities for several years, a violation of the most fundamental rules of international humanitarian law. These acts could be qualified as war crimes, or even as crimes against humanity, given their widespread or systematic character. The nature of these acts and some statements, in particular that by Hamas leader Ghazi Hamad who, on 24<sup>th</sup> October 2023, expressed his wish to repeat actions like that of October 7 until the state of Israel has been destroyed, are indicative of a risk of genocide, or attempted genocide, against the Israeli people.

Since then, the State of Israel has been conducting a massive bombing campaign in Gaza that has caused many thousands of deaths, including a large number of children, and a countless number of injured persons. Some of these bombings appear seriously to disregard the requirements of international humanitarian law by failing to distinguish between legitimate military targets and civilians or by causing harm to civilians which is disproportionate to the military advantage pursued. Humanitarian organisations on the ground have moreover condemned the dire lack of supply of food, water, fuel, and electricity, with deadly consequences, especially in hospitals. Strikes on schools, ambulances, and roads used by civilians to leave northern Gaza at the behest of the Israeli authorities have also been noted. These strikes have been justified by reference to the alleged presence of fighters at the places targeted by their bombings, or by referring to the use of protected civilian objects for military purposes, in breach of humanitarian law. These military operations are conducted in a deliberate, organised, and systematic manner without regard for the suffering they inflict on the civilian population, while several Israeli officials consider that the civilian population of Gaza is collectively complicit with Hamas, the members of which are qualified as “human animals” or already “dead people”. Many of these facts could be characterised as war crimes. Given the general or systematic character of these attacks, which directly and massively affect the civilian population, they may possibly also be qualified as crimes against humanity. Further, on 2<sup>nd</sup> November 2023, eight United Nations special rapporteurs issued a press release expressing concern about a “serious risk of genocide” against the Palestinian people.

In an international context where respect for international law is increasingly eroded, the Belgian Society of International Law wishes to recall the legal principles that must be observed by all parties to the conflict, as well as by all States not party to the conflict and by the international organisations of which they are members. In particular:

1. The general protection of civilians is a cardinal principle of international humanitarian law. This principle protects all civilians without distinction, with the very specific exception of civilians who are directly participating in hostilities. This principle must be respected unconditionally, and whatever the circumstances. A breach of this principle may entail the responsibility of the acting State; and as well as individuals committing such breaches may be responsible for war crimes. Hamas and Israel must immediately and unconditionally put an end to these violations and crimes.
2. Within this framework, the parties to the conflict must facilitate, in particular but not solely, and on the most urgent and on an unconditional basis, the provision of essential goods to the

entire civilian population of Gaza. This may require, depending on the circumstances, the cessation of fighting, an increase in the capacity of existing access roads into the Gaza Strip, the opening of additional access roads, the provision of essential goods by air or via the sea, if necessary, by international organisations or by States not parties to the conflict.

3. It is the responsibility of the International Criminal Court, which has asserted its jurisdiction over the situation in Palestine, to conduct an investigation, initiate prosecutions and to deliver judgements so as authoritatively to give a legal characterisation of the facts.
4. All States, including Israel and Palestine, are under an international obligation to ensure respect for international humanitarian law in accordance with the principle enshrined in Common Article 1 to the four 1949 Geneva Conventions. They are under an international obligation, individually and collectively, to use their influence and to do everything which is reasonably within their power to prevent and to bring to an end violations of international humanitarian law.
5. Given the risk of genocide, the obligation to prevent genocide under the 1948 Convention on the Prevention and Punishment of the Crime of Genocide now applies.
6. All States have an international obligation not to provide aid or assistance in respect of acts constituting serious breaches of international law which are currently being committed by both parties.
7. All States have an obligation not to recognise the illegal situation resulting from the occupation of the Palestinian territories, and to co-operate to achieve a peaceful and lasting settlement of the conflict. Such a settlement must be urgently pursued in accordance with the principles of international law: respect for the right of the Palestinian people to self-determination within the 1967 borders or according to any other freely agreed settlement, an end to the colonisation and the dismantling of Israeli settlements, and respect for universal fundamental rights, in particular the right to security.

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