

# **Israel Uses Palestinian Children as Human Shields, Breaching Sacrosanct Principles of International Humanitarian Law**

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## **For the attention of:**

- The United Nations Special Rapporteur on the Situation of Human Rights in the Palestinian territory occupied since 1967, Ms. Francesca Albanese;
- The United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Ms. K.P. Ashwini;
- The United Nations Special Rapporteur on violence against women and girls, its causes and consequences, Ms. Reem Alsalem;
- The United Nations Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, Mr. Ben Saul;
- The UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Ms. Ashwini K.P.;
- The UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Ms. Tlaleng Mofokeng;
- The United Nations Working Group on Arbitrary Detention, Ms. Ganna Yudkivska, Ms. Miriam Estrada-Castillo, Mr. Matthew Gillett, Mr. Mumba Malila.

## **1. Introduction**

Al-Haq, Al Mezan Center for Human Rights (Al Mezan) and Palestinian Centre for Human Rights (PCHR), as Palestinian human rights organisation based in Ramallah and in Gaza, in the Occupied Palestinian Territory (OPT), warn that Israel is attacking and killing Palestinians in Gaza on an industrial scale in an ongoing and worsening brutal genocide.<sup>1</sup> Israel is attacking and systematically destroying entire civilian areas which it characterises as being used as “shields”, in abject disregard of the most basic and fundamental principles of international human rights and international humanitarian law. The attacks on Palestinian civilians and their properties in Gaza, including through Israel’s claims of “shielding” are being carried out with an overt intent to destroy the Palestinian population in Gaza, in acts in breach of the Genocide

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<sup>1</sup> “*More than a human can bear*”: Israel’s systematic use of sexual, reproductive and other forms of gender-based violence since 7 October 2023”, Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel (13 March 2025), <https://www.un.org/unispal/document/report-of-the-commission-of-inquiry-israel-gender-based-violence-13march2025/>; United Nations, UN News Global Perspective Human Stories, ‘*Stop the 21st century atrocity*’ in Gaza, Fletcher urges UN Security Council (13 May 2025), <https://news.un.org/en/story/2025/05/1163206>

Convention [see section II]. As stated by United Nations Secretary General, António Guterres, “Gaza is a killing field – and civilians are in an endless death loop.”<sup>2</sup>

In addition, our organisations have documented a pattern of incidents where Israeli soldiers have deliberately coerced Palestinian civilians, including children into being human shields to walk in front of them, and search various places, including houses and tunnels, so that hostile fire is directed at them and not at the Israeli Occupying Forces (IOF) [see section III]. This pattern represents an Israeli practice known as the ‘Johnnie procedure’ or ‘neighbour procedure’, where Palestinian children are used by the Israeli military to knock on the doors of Palestinian houses and apartments while the IOF search them. The patterns further involve arbitrary detention, beatings to obtain information on members of the Palestinian resistance and the use of intimidating methods, including the use of police dogs.

## **II. Charactering and Targeting Palestinian Civilians as Human Shields in Gaza**

Israel has engaged in a pattern of attacks against the civilian population in Gaza, by characterising them as “human shields”, alleging that civilians and civilian properties have been used for shielding military objectives and on this basis indiscriminately targeting them in attacks. Israel alleges that resistance movements operating in Gaza resort to using Palestinian civilians as human shields. 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.<sup>3</sup> Relying on this rhetoric, Israel has largely broadened the scope of ‘legitimate’ targets through a blanket designation of an entire population as human shields. It has done so without presenting verified evidence to support the allegations.<sup>4</sup> As noted by the Special Rapporteur on the Occupied Palestinian Territory, “[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”.<sup>5</sup>

### **A. Israel’s Policy of Categorising the Palestinian population as Targetable Human Shields**

Shortly after 7 October 2023, Israel’s Prime Minister Benjamin Netanyahu warned that Israel “seeks to minimize civilian casualties,” while “ Hamas seeks to maximize civilian casualties”, perpetrating:

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<sup>2</sup> United Nations, Secretary General (8 April 2025), <https://www.un.org/sg/en/content/sg/press-encounter/2025-04-08/secretary-generals-press-encounter-gaza-scroll-down-for-arabic>

<sup>3</sup> International Committee of the Red Cross, “How does the law protect in war”, available at: [https://casebook.icrc.org/a\\_to\\_z/glossary/human-shields](https://casebook.icrc.org/a_to_z/glossary/human-shields).

<sup>4</sup> Human Rights Council, “Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel” (14 June 2024) UN Doc A/HRC/56/26, para. 47.

<sup>5</sup> 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.

“a double war crime: targeting our civilians while hiding behind their civilians, embedding themselves in the civilian population, and using them as human shields. We’ve seen the cost of this — this terrible double war crime against humanity . . . As Israel legitimately targets terrorists, civilians are unfortunately harmed. Hamas is responsible and should be held accountable for all civilian casualties.”<sup>6</sup>

Subsequently, in November 2023, Israel’s Minister of Foreign Affairs stated:

“Suggesting a moral equivalence between Israel and [...] organizations is repugnant. Any sound analysis of Israeli operations cannot avoid the crucial context of the ongoing attacks, as well as the nature of the enemies, and the scope of the threat, that Israel faces on multiple fronts. It must reject any moral equivalence . . . between the IDF, which seeks to minimize civilian harm, and the [...] groups that deliberately target Israeli civilians while perversely viewing Palestinian civilians as expendable and using them as human shields”.<sup>7</sup>

Israel repeated Prime Minister Benjamin Netanyahu’s January 10 statement, in its oral intervention in the *South Africa v Israel* case, once again blaming the unprecedented number of civilian casualties in Gaza, on Hamas stating: “The IDF is doing its utmost to minimize civilian casualties, while Hamas is doing its utmost to maximize them by using Palestinian civilians as human shields.”<sup>8</sup> Israel has further employed this rhetoric, beyond the Occupied Palestinian Territory (OPT), similarly alleging that “U.N. troops [in Lebanon] provide a human shield for Hezbollah fighters”.<sup>9</sup> Israel has maintained this narrative in the course of the ongoing genocide against the Palestinian people to “justify the widespread and systematic killing of Palestinian civilians” in Gaza.<sup>10</sup> More recently on 18 March 2025, Prime Minister Netanyahu stated in a thread on X:

“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.

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<sup>6</sup> White House, “Remarks by President Biden and Prime Minister Benjamin Netanyahu of Israel Before Expanded Bilateral Meeting”, 18 October 2023, available at: <https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/10/18/remarks-by-president-biden-and-prime-minister-benjamin-netanyahu-of-israel-before-expanded-bilateral-meeting-tel-aviv-israel/>

<sup>7</sup> State of Israel, Ministry of Foreign Affairs, “Hamas-Israel Conflict 2023: Key Legal Aspects”, 2 November 2023, available at: <https://www.gov.il/en/pages/hamas-israel-conflict2023-key-legal-aspects>.

<sup>8</sup> ICJ, Case concerning *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, 26 January 2024.

<sup>9</sup> Reuters, “UN peacekeepers say Israel’s destruction of their property breaches international law”, 8 November 2024, available at: [UN peacekeepers say Israel's destruction of their property breaches international law | Reuters](https://www.reuters.com/world/middle-east/un-peacekeepers-say-israels-destruction-their-property-breaches-international-law-2024-11-08/).

<sup>10</sup> 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.

Palestinian civilians should avoid any contact with Hamas [...], and I call on the people of Gaza, 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.”<sup>11</sup>

In October 2023, IOF spokesperson Rear Adm. Daniel Hagari claimed at a news conference that “Hamas has turned hospitals into command and control centers and hideouts for Hamas [...] and commanders”.<sup>12</sup> Rear Adm. Daniel Hagari explained the Israeli army's targeting of Palestinian hospitals in Gaza, where the displaced civilian population were sheltering:

“Human shields are a key pillar of Hamas's terror operations. Hamas systematically exploits hospitals as a key part of its war machine. This is the murderous organization we are dealing with. Hamas doesn't even try to hide it. They say it loud and clear.”<sup>13</sup>

In November 2023, the IOF published and deleted a post on social media platform X calling ambulances and hospitals “terrorist infrastructure” and “legitimate military targets.”<sup>14</sup> Indeed, characterizations of the healthcare system in the Gaza Strip as “terrorist infrastructure” and employing the argument that militant groups were using hospitals and displaced people inside as “human shields” permeated Israeli society, with a group of 45 influential Jewish rabbis in Israel issuing a letter to Prime Minister Benjamin Netanyahu stating that there is no religious or moral objection to bombing Al-Shifa Hospital in Gaza.<sup>15</sup> The Israeli military claimed that Hamas was using Palestinian civilians as human shields in Al-Shifa Hospital,<sup>16</sup> Nasser Hospital, and the Indonesian Hospital.<sup>17</sup> In its systematic targeting of hospitals in Gaza, the UN Commission of Inquiry concluded that “Israel has implemented a concerted policy to destroy the health-care system of Gaza”.<sup>18</sup> Since then, on May 13, two Palestinians were killed and 12

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<sup>11</sup> Prime Minister of Israel @IsraeliPM, Tweet (7:15 pm, 18 March 2025), <https://x.com/IsraeliPM/status/1902076306533314722>

<sup>12</sup> “Israeli military says Hamas hiding tunnels, operation centres in Gaza hospital”, Reuters (27 October 2023), <<https://www.reuters.com/world/middle-east/israeli-military-says-hamas-hiding-tunnels-operations-centresgaza-hospital-2023-10-27/>>.

<sup>13</sup> Emanuel Fabian, IDF releases new intel detailing Hamas use of Gaza hospitals for terror purposes, Times of Israel (5 November 2023), <https://www.timesofisrael.com/idf-releases-new-intel-detailing-hamas-use-of-gaza-hospitals-for-terror-purposes/>; see also, <https://x.com/IDF/status/1759287790838108399>

<sup>14</sup> Law for Palestine, Database of Israeli Incitement to Genocide: Armed Forces (15 January 2024), No. 9, <<https://law4palestine.org/wp-content/uploads/2024/01/3-Database-of-Israeli-Incitement-to-Genocide-15th-January-2024-ARMED-FORCES.pdf>>.

<sup>15</sup> @Nimrod\_Flash, X (30 October 2023), <[https://x.com/Nimrod\\_Flash/status/1719080045887521054](https://x.com/Nimrod_Flash/status/1719080045887521054)>; Law for Palestine, Database of Israeli Incitement to Genocide: Public Expressions (15 January 2024), No. 25, <<https://law4palestine.org/wp-content/uploads/2024/01/5-Database-of-Israeli-Incitement-to-Genocide-15th-January-2024-Public-Expressions.pdf>>.

<sup>16</sup> Sam Halpern, “Hamas is firing mortars at Shifa”, The Jerusalem Post (25 March 2024), <<https://www.jpost.com/israel-hamas-war/article-793576>>; Orly Goldschmidt (Spokesperson, Embassy of Israel), “Israel never targets innocents intentionally”, *The Guardian* (4 July 2024), <<https://www.theguardian.com/world/article/2024/jul/04/israel-never-targets-innocents-intentionally>>; See also ICRC, Customary IHL Rule 97: Human Shields, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule97>>.

<sup>17</sup> Emanuel Fabian, IDF releases new intel detailing Hamas use of Gaza hospitals for terror purposes, Times of Israel (5 November 2023), <https://www.timesofisrael.com/idf-releases-new-intel-detailing-hamas-use-of-gaza-hospitals-for-terror-purposes/>; see also,

<sup>18</sup> UNGA, *Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel*, A/79/232 (11 September 2024) p. 18, <https://documents.un.org/doc/undoc/gen/n24/262/79/pdf/n2426279.pdf?>

injured in an Israeli attack on Nasser hospital, with Director-General of the World Health Organisation, Tedros Adhanom Ghebreyesus stating “We repeat our call: attacks on hospitals must stop”<sup>19</sup> — hospitals are “stretched beyond breaking point”.<sup>20</sup>

## **B. Israel’s Policy of Targeting Palestinians that it Claims are used as Human Shields Breaches International Law**

Israel’s policy of broadly construing Hamas activities as human shields and legitimate military objectives (and subsequently attacking civilians it considers are used as human shields) has been previously found to be unlawful, and an incorrect application of the law on human shielding. 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.”<sup>21</sup> 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. The UN FFMGC similarly concluded that “[f]ighting within civilian areas is not, by itself, sufficient for a finding that a party is using the civilian population living in the area of the fighting as a human shield”.<sup>22</sup> 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.<sup>23</sup> This understanding is corroborated by the International Criminal Court’s Elements of Crimes<sup>24</sup> which similarly requires a finding of intention.

## **III. Israel’s Practice of Using Palestinians as Human Shields**

For decades Israel has employed practices of using Palestinians as human shields. In 2008, during so-called Operation Cast Lead, Israeli forces “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 the Israeli soldiers”, as evidenced by published testimonies of Israeli soldiers who took part in the military operations. The United Nations Fact-finding Mission concluded “that this practice amounts to the use of Palestinian civilians as human shields”.<sup>25</sup> Under the “neighbours procedure” also termed the “Johnnie procedure”, the IOF forced Palestinians to “walk through and scan buildings suspected to be booby-trapped, and in which it ordered them to enter certain areas before the combat forces, in order to find wanted persons there” using the “residents as a ‘human

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<sup>19</sup> Tedros Adhanom Ghebreyesus @DrTedros, Tweet (2:54 pm, 13 May 2025), <https://x.com/DrTedros/status/1922289438773698916>

<sup>20</sup> Tedros Adhanom Ghebreyesus @DrTedros, Tweet (10:25 pm, 20 May 2025), <https://x.com/DrTedros/status/1924939651615281179>

<sup>21</sup> 2015 COI, para 482.

<sup>22</sup> 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.

<sup>23</sup> ICTY, *Prosecutor v Mladić* (Trial Judgment) IT-09-92, 22 November 2017, para. 3382.

<sup>24</sup> 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.”

<sup>25</sup> 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.



shield”<sup>26</sup> Notably, the “use of civilians is not an independent initiative by soldiers in the field but usually the result of a decision made by senior military authorities.”<sup>27</sup> The vast majority of incidents where soldiers have used 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”.<sup>28</sup>

Israel continued to use the practice of human shields, in particular in 2014 during so-called Operation Protective Edge in Gaza, and no Israeli soldier or commander was prosecuted.<sup>29</sup> As documented by 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”.<sup>30</sup> According to their report, “[t]he 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.”<sup>31</sup>

In 2023, prior to October 7, Palestinian human rights organisations documented further incidents of Israel's practice of using human shields in the West Bank. In the first half of 2023, Defence for Children International-Palestine recorded incidents in which the IOF used at least five Palestinian children, including two toddlers, as human shields.<sup>32</sup> Another three incidents were reported by newspapers included Israeli forces using two Palestinian paramedics as human shields, in shooting attacks on 4 July 2024.<sup>33</sup>

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<sup>26</sup> 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.

<sup>27</sup> B'Tselem, “Human Shields”, 11 November 2017, available at: [https://www.btselem.org/human\\_shields](https://www.btselem.org/human_shields).

<sup>28</sup> B'Tselem, “Human Shields”, 11 November 2017, available at: [https://www.btselem.org/human\\_shields](https://www.btselem.org/human_shields).

<sup>29</sup> B'Tselem, “Human Shields”, 11 November 2017, available at: [https://www.btselem.org/human\\_shields](https://www.btselem.org/human_shields).

<sup>30</sup> 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.

<sup>31</sup> Lawyers for Palestinian Human Rights and Al-Mezan, “Justice Denied-Gaza humanman r shield survivors and the systematic failure of Israel's military investigation system to provide accountability”, September 2018, p.1.

<sup>32</sup> Defence for Children International-Palestine, “Israeli forces use five Palestinian children as human shields”, 18 May 2023, available at: [https://www.dci-palestine.org/israeli\\_forces\\_use\\_five\\_palestinian\\_children\\_as\\_human\\_shields](https://www.dci-palestine.org/israeli_forces_use_five_palestinian_children_as_human_shields).

<sup>33</sup> Mosab Shawer, “West Bank human shield describes “100 breathless minutes” held by Israel”, Al-Jazeera, 31 January 2024, available at: <https://www.aljazeera.com/features/2024/1/31/west-bank-human-shield-describes-100-breathless-minutes-held-by-israel>; A second reported incident on 10 November 2023, involved a blindfolded Palestinian detainee who was used as a human shield in the Fawwar refugee camp near Hebron, forced to sit on the ground, with military vehicles behind him, and an Israeli soldier aiming his rifle towards a group of Palestinians. Ziad Aslan, “Israeli army in West Bank uses Palestinians detainee as human shield”, Andalou Agency, 10 November 2023, available at: <https://www.aa.com.tr/en/middle-east/israeli-army-in-west-bank-uses-palestinian-detainee-as-human-shield/3049924>; A third incident on 15 January 2024, were Israeli forces reportedly kicked and punched shop-owner, Bahaa el-Din Abu Ras forcing him to march into the street, where Palestinians were throwing rocks at Israeli soldiers. One Israeli soldier ordering: “You go in front of me, we'll see if anyone dares to throw stones at us now. Mosab Shawer, “West Bank human shield describes “100 breathless minutes” held by Israel”. Abu Ras was used as a shield by the army, protecting them from stones and bullets, for an hour and a half, as tear gas spread around him, making it hard to breathe. Al-Jazeera, 31 January 2024, available at: <https://www.aljazeera.com/features/2024/1/31/west-bank-human-shield-describes-100-breathless-minutes-held-by-israel>.

## **A. Palestinian Children Used as Human Shields in the West Bank**

On 6 May 2024, at approximately 8:00 am, 20-25 Israeli soldiers, with black masks on their faces, raided a building in the Tulkarem refugee camp. As part of the attack on the camp started the day before, the IOF used Palestinian child, **K.A., 11**, as a human shield. K.A. recalled to Al-Haq:

*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.” Then the soldier forced me, accompanied by other soldiers, to walk in front of them inside the apartment and open the closed doors. Inside it were several doors to a room inside the apartment, as I would open the door to the room and then the soldiers would enter it while pointing their weapons forward, and this was repeated in several rooms, as I walked in front of them and they behind me . . .*

*I cannot describe my feelings and the intensity of fear that I felt while the soldiers were taking me from inside the apartment on the fourth floor to the top of the stairs. 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. [...] one of them told me that they were going to send me outside the building and to some of the houses next to the building in order to open the doors of those houses and ask their residents to leave. That is, they wanted to use me as a human shield to walk in front of them and knock on the doors and ask the residents of the houses to leave . . .*

K.A. recounts how the IOF 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:

*[s]ome of the soldiers began to assault me severely, as some of the soldiers were carrying black wooden sticks known to us as “Qanwa”. There were three of them who assaulted me with those sticks on different parts of my body, especially my lower limbs, and in a strong way, which caused me severe pain. I was crying from the intensity of the pain and fear, as my grandmother continued to scream at the soldiers and tried to free me from their hands and asked them to let me enter her house, but the soldiers refused.*

*One of the soldiers was saying to me while they were assaulting me, “You are a saboteur and you are with the battalion,” meaning the armed Palestinian youth from Tulkarm camp. One of the soldiers asked me about one of the people known to belong to the Tulkarm camp battalion and who lives in a house directly near our house, and I told him that I did not know him.*

*My grandmother continued to scream at them, and here after some time the soldiers asked me to return to the fourth floor to where the rest of the building’s residents were being held, which is what actually happened, as I and the rest of the building’s residents continued to be held . . . I was exposed to extreme fear and terror, in addition to seeing*

*two police dogs with the Israeli soldiers . . . all the time those dogs were close to my body.*<sup>34</sup>

On the same day, at the same time, and as part of the same raid on the Tulkram refugee camp, the IOF used Palestinian child **M.M.**, 13, in the same manner as a human shield, and subjected him to beatings, placing him in close proximity to military trained dogs, while a soldier fired bullets from a gun placed over his right shoulder:

*[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 said 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. That stick is medium-length and is known to us as “the qanwa.”*

*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.*

*. . . before they entered it, and while I was standing at the entrance to that apartment and shouting whether anyone was in the apartment or not, one of the soldiers fired several bullets while standing behind me with the barrel of his weapon above my right shoulder. When the soldier fired at least two bullets in that manner, I felt fear and terror, especially since the shooting came from above my right shoulder and near my right ear.*

*The soldiers forced me to enter the apartment on the fourth floor, where the rest of the building’s residents were detained, and we remained detained until the Israeli force withdrew from inside the building, which was around seven o’clock in the evening of the same day. As a result of what happened to me, I live in a state of shock and fear.*<sup>35</sup>

On 29 August 2024, at approximately 3:00 am, Israeli soldiers forced Palestinian child **M.S.**, 9, from his home in the Nur Shams refugee camp near Tulkarm city, using him as a human shield. M.S. recalls, how Israeli soldiers forced him to open the door of a building and enter it, while using military dogs:

*“[The IOF] 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*

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<sup>34</sup> Al-Haq Affidavit 2024-05-026-TK-F-A1-IL-CLD, taken from K.H.A A.O, 11, resident of Tulkarm.

<sup>35</sup> Al-Haq Affidavit 2024-05-026-TK-F-A2-IL-CLD, taken from M.M., 13, resident of Tulkram.



*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."*

*Here I went back and tried to open the door again in front of a number of Israeli soldiers who were behind me, only a few meters away from me. I was kicking the door with my feet and hands with all my strength out of fear until it opened and I was able to do so. They then ordered me to enter and they 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"*<sup>36</sup>

In addition, I.A., 15, described how he was used as a human shield in a similar manner in the Tulkram refugee camp, on 6 May 2024, around 9:00 am:

*During that field investigation, I was beaten by some of the soldiers who hit me with their hands all over my body. Then one of the soldiers tied my hands with plastic ties and asked me to go outside with several soldiers in order to evacuate the residents of some of the houses near where I live in the al-Sawalmeh neighbourhood. In other words they used me as a human shield to walk in front of the soldiers in the alleys of the Al-Swalmeh neighbourhood, to enter the houses that the soldiers chose and to ask the residents of those houses to leave them so that the soldiers could enter them . . .*

*. . . I was walking in front of them . . . and the soldiers asked me to knock on the doors of several houses around my house and ask their residents to leave them. I saw the soldiers working to transfer the residents of those houses to other houses, then the soldiers asked me to enter those houses and open all the closed doors in them and then leave. After that the soldiers raided those houses and searched them, and this was repeated in three houses . . .*

*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.*<sup>37</sup>

## **B. Using Palestinians as Human Shields to Search Tunnels in Jenin**

Al-Haq has documented an incident in the Jenin refugee camp in the West Bank where Israeli soldiers used a Palestinian as a human shield to search a tunnel under a mosque. N.D., 25, described to Al-Haq how the IOF used him as a human shield on 4 September 2024, at around 1:00 am:

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<sup>36</sup> Testimony taken from M.S., 9, resident of Tulkram, on 5 July 2024, on file with Al-Haq.

<sup>37</sup> Testimony taken from I.A., 15, resident of Tulkram, on 5 July 2024, on file with Al-Haq.

*“[O]ne of the soldiers approached me with a small camera in his hands and asked me to hold the camera in my hands and then told me that they were going to take me into a tunnel that they had found under the basement of the mosque, and I went there with the soldiers. When we reached the opening of a tunnel under the mosque, the soldiers forced me to go down into the opening of that tunnel, which was a wide, and not deep opening, less than one meter high. I went down into the tunnel and two soldiers came down behind me, one of them was holding a flashlight in his hands and the other was aiming his weapon at me [...].*

*When we were inside the tunnel, one of the soldiers told me that I had to walk in front of them while holding the camera while the two soldiers would walk behind me, and that I had to photograph the tunnel by moving the camera to the right and to the left and forward. I started walking slowly according to the soldiers’ instructions and I did what they asked me. They were walking behind me and we walked in the tunnel for a distance of about 10-12 meters, according to my estimate, and we were walking from the southern side to the northern side.*

*Here, the soldiers ordered me to stop and return to the beginning of the tunnel in the same manner described above. The soldiers threatened me that if I made any movement, they would shoot me. [...]. Then the two soldiers and I came out of the tunnel, and here I was taken outside the basement in Al-Ansar Mosque and detained while sitting on my feet . . .*

*I was re-interrogated again about the location of the armed youths and about the aforementioned tunnel. I told the soldiers that I did not have any information . . . The blindfold was put back on, and after about two hours of being detained in this manner, according to my estimation of the time, the cloth band was removed from my eyes and one of the soldiers asked me to provide him with my mobile phone number. [...].*

In terms of context, N.D. stated the following:

*[T]he Ansar Mosque was previously subjected to raids and searches as well as aerial bombing operations under the pretext of its use by Palestinian militants as a headquarters and a place for their presence and the preparation of homemade bombs. The occupation also claims that there are tunnels under the mosque and in its vicinity that are used by armed militants for various purposes.<sup>38</sup>*

### **C. Using a Palestinian Ambulance Driver and Paramedic as a Human Shield**

Al-Haq documented the IOF using a Palestinian paramedic as a human shield during a six-hour long military raid on Tulkarem city, including Tulkarem and Nour Shams refugee camps on 27 December 2023, during which six Palestinians, including two children, were killed in an Israeli airstrike.

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<sup>38</sup> Testimony taken from Nasser Zuhair Mahmoud N.D., 25, resident of Jenin, on 9 September 2024, on file with Al-Haq.

A.S., a Palestinian ambulance driver and paramedic, responded to a call involving a targeted Palestinian vehicle, accompanied by a colleague. Upon reaching the location, the IOF blocked the ambulance, instructing A.S. to turn off the engine and hand over the vehicle keys. Following disembarkation, IOF soldiers searched the paramedics, inspected the ambulance, confiscated their phones, and directed A.S.'s colleague back to the vehicle. A.S. was asked to accompany the IOF to an abandoned building, claiming an injured person was inside. With weapons aimed at him, A.S. was compelled to search the two-floored building, informing the soldiers that no injured persons were found. Despite his reassurance, one soldier insisted that he search again and thoroughly. Throughout the 30-minute process, A.S. observed laser beams from the soldiers' weapons following him, sometimes directed at him and other times towards different areas inside the building. After completing the search, A.S. was given the keys of the ambulance and allowed to leave. In his testimony to Al-Haq, A.S. reaffirmed:

*“the soldiers used me as a human shield and did not enter the abandoned building until they forced me into it and compelled me to search it... I felt threatened, especially as the Israeli soldiers had their weapons aimed at me, ready to shoot at any moment.”*<sup>39</sup>

#### **D. Palestinians in Gaza used as Human Shields**

Throughout Israel's ongoing genocidal campaign in Gaza, Al-Haq has documented the disturbing and widespread use of Palestinians, including children and healthcare workers, as human shields by the IOF.<sup>40</sup> Palestinians taken as human shields in Gaza were in fear for their lives and threatened with being killed at any moment.<sup>41</sup> Masoud Abu Saeed, 36 was arbitrarily arrested in Khan Younis and forced by the Israeli military to search Al Nasser Hospital as a human shield, under threat of death. Abu Saeed was forced to enter buildings ahead of the Israeli soldiers, and was given a camera to use to film the rooms and record any suspicious devices. At Al Nasser hospital he experienced the “*height of the horror*” — there were dead bodies lying in the street and the smell of death was everywhere. Israeli snipers were everywhere. He recalled to Al-Haq: “*Once you survive one thing, you do not know if you will make it through what's next.*”<sup>42</sup> The laser was pointed at him in the dark, each time in a different area of the body that indicated an intent to kill. He expressed: “*They would point it at my heart, my head, and my chest. Can you imagine five snipers pointing their lasers at you at night?*” He continued to describe how, in the moments when you're used as a human shield, you're

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<sup>39</sup> Testimony of A.S., 30, taken on 27 December 2023, on file with Al-Haq.

<sup>40</sup> UN HRC, Joint written statement submitted by Al-Haq, Law in the Service of Man, Human Rights & Democratic Participation Center "SHAMS", Palestinian Centre for Human Rights, Palestinian Initiative for the Promotion of Global Dialogue and Democracy (MIFTAH), non-governmental organizations in special consultative status, A/HRC/55/NGO/181 (January 2024), [https://www.alhaq.org/cached\\_uploads/download/2024/02/24/israel-s-escalating-military-attacks-in-the-west-bank-1708765413.pdf](https://www.alhaq.org/cached_uploads/download/2024/02/24/israel-s-escalating-military-attacks-in-the-west-bank-1708765413.pdf)

<sup>41</sup> Palestinian Centre for Human Rights, *Torture and Genocide: The Shattered Futures of Former Palestinian Detainees in Gaza* (October 2023 – October 2024), pp. 70-71, <<https://pchrgaza.org/wp-content/uploads/2025/05/Torture-and-Genocide-The-Shattered-Futures-of-Former-Palestinian-Detainees-in-Gaza.pdf>>

<sup>42</sup> Testimony of Masoud Abu Saeed, taken on 1 March 2025, on file with Al-Haq (docket GZ125).

completely surrounded, he detailed: *“You’re forced to do as they say. The quadcopter is hovering over you, the snipers are pointing at you while the camera is recording.”*

The IOF employs tactics of both psychological and physical torment as tools to assert subjection over Palestinians. In addition to constantly threatening their lives, Palestinians are often coerced through threats against their families, a method to force compliance with the demands of the IOF. In another incident, high school student, Mohammad Arabi Nasser Shabir was used as a human shield after a strike on his family home. Following the attack, the IOF stormed the apartment and opened fire on his brothers and mother, which led to his sister being killed. He recalled: *“I told them [IOF] I do not want to go in [to search a house]. He [soldier] said, ‘If you don’t, we will kill your mother and siblings’.”* Mohammad was taken for approximately a week, during which he was forced to remain in his underwear even while searching the houses.

Palestinian abductees have been forced to dress in Israeli “military uniforms, attached cameras to their bodies, and sent . . . into underground tunnels as well as buildings in order to shield Israeli troops” making it “hard to recognise them.”<sup>43</sup> Al-Mezan has collected testimonies evidencing this new practice, and documented such incidents that occurred on 10 January and 16 May 2024.<sup>44</sup>

A 31-year-old Palestinian in Gaza recounted to Al Mezan:

*“On 16 May 2024, Israeli forces arrested me from my home in Jabaliya, northern Gaza. They forced me to undress, blindfolded me, bound my wrists, and beat me. Then they removed the blindfold and dressed me in an Israeli military uniform, complete with [protective] vest and helmet. They handed me a camera and ordered me to enter one of the tunnels in Jabaliya, with them behind me. I refused, fearing for my life. They then forced me into a house to search it.”<sup>45</sup>*

Another Palestinian from Khan Younis recalled:

*“On the morning of 10 January 2024, the [Israeli] occupation forces stormed our neighborhood without warning or notice to evacuate. There had been no signs of any coming invasion or military operation. When we heard rapid machine gun fire, we all gathered in one room in the house. There were 52 of us, including immediate family members and in-laws from another displaced family. Occupation army bulldozers—accompanied by some tanks and occupation army soldiers—demolished part of the wall separating us from our neighbors; then they blew up another wall and stormed the house. There were about 20 soldiers. They used my eldest son as a human shield to*

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<sup>43</sup> Neve Gordon, “Israel has taken human shields to a whole new criminal level”, Al-Jazeera, 20 October 2024, available at: [Israel has taken human shields to a whole new criminal level | Israel-Palestine conflict | Al Jazeera](#).

<sup>44</sup> Al-Mezan, “Gaza: Israel Military Uses Abducted Palestinians as Human Shields”, 3 September 2024, available at: <https://www.mezan.org/en/post/46516/Gaza:-Israeli-Military-Uses-Abducted-Palestinians-as-Human-Shields>.

<sup>45</sup> Al-Mezan, “Gaza: Israel Military Uses Abducted Palestinians as Human Shields”, 3 September 2024, available at: <https://www.mezan.org/en/post/46516/Gaza:-Israeli-Military-Uses-Abducted-Palestinians-as-Human-Shields>.

*storm the house, taking him with them as they opened all the doors of the house and searched all the rooms and other areas in the house.”<sup>46</sup>*

On 3 May 2024, video footage showed Israeli soldiers directing a Palestinian civilian they used as a human shield to inspect a school in the Shujaiya neighbourhood, Gaza City.<sup>47</sup> On 24 June, the Palestinian Centre for Human Rights documented an incident where a displaced man from Jabalia in Al Mawasi, Khan Younis, was used as a human shield.

**M.’A.S,** 21 recalled to Palestinian Centre for Human Rights:

*“To make a living and support my family, at around 10:00 on Sunday, 23 June 2024, I went with a group of 19 young men (I do not know any of them) to the Kerem Shalom Crossing, eastern Rafah, near Shokah School, searching for work. We walked around 800 meters to the east and arrived where the truck drivers were. Suddenly, three military SUVs carrying Israeli soldiers advanced towards us. They surrounded us and then the soldiers searched us one by one. Afterwards, we were handcuffed with plastic zip ties behind the back, blindfolded with a piece of cloth, and then forced to get into the SUVs that drove us for around an hour to the Egyptian borders near Rafah Crossing, where a UN warehouse was located, and an IOF site was established (I could see it from under the blindfold) . . .*

*At approximately 10:00 on the fourth day, the IOF came and took me along with 4 other young men, not knowing any of their names. We were taken into a military SUV that drove us and after 20 minutes stopped and dropped us off. After being unblindfolded, we found ourselves in a military site established between houses in Rafah on Salah al-Din Road. They held us in one room on a floor in a house with two Israeli soldiers guarding us. At around 16:00 on Thursday, 27 June 2024, an Israeli soldier entered the room and took me along with another detainee to the ground floor of the house, where we were informed that they would use us to photograph the houses, streets, roads and tunnels (as human shields). We refused immediately but after threatening to shoot us and then beating us with rifles’ butts and hands, the soldiers forced us to wear IOF’s military uniform and then walked us to an area, which was about five minutes away from the place of detention.”*

At that moment, they placed a helmet on his head with a camera and an earpiece, and they did the same with the other person.

*Afterwards, the soldiers ordered us to enter a house and film it with the camera on the helmet. After being beaten and threatened to shoot us, we obeyed their orders. Accompanied by a quadcopter, we entered and filmed the houses with the camera fixed on our helmets while the soldiers were guiding us where to move in the house, right or*

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<sup>46</sup> Al-Mezan, “Gaza: Israel Military Uses Abducted Palestinians as Human Shields”, 3 September 2024, available at: <https://www.mezan.org/en/post/46516/Gaza:-Israeli-Military-Uses-Abducted-Palestinians-as-Human-Shields>.

<sup>47</sup> Anadolu Ajansi, “New video shows Israeli soldiers in Gaza using Palestinian civilian as human shield”, 3 May 2024, available at: <https://www.aa.com.tr/en/middle-east/new-video-shows-israeli-soldiers-in-gaza-using-palestinian-civilian-as-human-shield/3208703>; See also, <https://www.youtube.com/watch?v=YVhuKZpnI3w>.

*left, and what to film and to focus on the ground floors. Sometimes, they would order us to cut some wires with a cutter they gave us, fearing that the wires might be attached to explosives hiddenly implanted by Palestinian armed groups. After being done with the house, the soldiers would come in, open fire, go through its contents and destroy them.*

*I did what they ordered me to do out of fear of the soldiers' threats to shoot me. I was in their custody for 42 days; during which, I was used as a human shield about 15 times, offering me one meal a day comprised of two slices of bread and if I had a mission to accomplish, they would bring me some tuna with the bread.*

*At approximately 06:00 on Tuesday, 06 August 2024, an Israeli soldier came and ordered me to go with him alone. I was afraid, because they would usually take us two or three together. I refused to go with him, but then did after being beaten with the weapon's butt in my back. He forced me to go with him and then placed me in a tank that drove me for about 10 minutes and then stopped. I was then ordered to get out of the tank without wearing their military uniform this time and go to another targeted by the Palestinian armed groups and film it. I refused out of fear, so they beat me and threatened to shoot me.*

*They then placed the helmet with the camera on my head and headed towards the tank while the soldiers were behind me. And just when I was about ten meters away from the targeted tank, I suddenly felt severe pain in the right side of my chest, so I looked to where I felt pain and found myself bleeding. I fell on the ground and then fainted, waking up the next day in a hospital. After being released, I learned from medical reports that I was in Soroka Hospital, where I stayed for 3 days, and that a gunshot hit my back and exited my chest . . . I got better, but a shrapnel fragment is still in the lung, and I have been told that I need surgery after the war ends to remove it.”<sup>48</sup>*

More recently, an Israeli soldier accused his commander of having used Palestinian civilians as human shields to search buildings for explosives as part of the “mosquito protocol”.<sup>49</sup> The specific statement is as follows: “They were Palestinian. We sent them in first to see if the building was clear and check for booby traps. They were trembling and shaking.” He added: “We talked to our commander and we asked him to stop doing it”. Instead, these soldiers were ordered to continue and told it was “policy”.<sup>50</sup>

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<sup>48</sup> Palestinian Centre for Human Rights, “They forced me to wear the Israeli military uniform and search houses”, (15 September 2024), <https://pchrgaza.org/they-forced-me-to-wear-the-israeli-military-uniform-and-search-houses/>

<sup>49</sup> CBS Evening News, @CBSEveningNews, Tweet (1:51 am, 27 March 2025), <https://x.com/CBSEveningNews/status/1905075122630734143>

<sup>50</sup> “CBS Evening News, Israeli soldier tells CBS News he was ordered to use Palestinians as human shields in Gaza” CBS News (26 March 2025), <https://www.cbsnews.com/news/israeli-soldier-palestinians-human-shields-gaza/>



## IV. Legal Analysis

The use of human shields is strictly prohibited under international humanitarian law. Article 51(7) of Additional Protocol 1 (API) establishes that:

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.<sup>51</sup>

In terms of applicability, Israel's recognition of the customary status of this rule, as well as that of many provisions of API, renders its failure to ratify it irrelevant.<sup>52</sup> "Presence", includes situations where "civilians are placed on or close to military objectives and those where military objectives are placed in the midst of civilians".<sup>53</sup> As such, the "perpetrator must intend to shield a military objective from attack or shield, favour or impede military operations".<sup>54</sup>

### A. Israel's General Classification of Palestinians in Gaza as Shielding, Breaches International Law

#### 1. The protection of civilians under the principle of distinction

The principle of distinction requires parties to an armed conflict to distinguish between civilians and combatants, and civilian objects and military objectives and to launch attacks only against combatants and military objectives.<sup>55</sup> Hence, indiscriminate attacks are prohibited.<sup>56</sup> This principle is considered a "cardinal principle" of IHL and an "intransgressible" principle of international customary law.<sup>57</sup> Civilians are defined negatively as persons who are not

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<sup>51</sup> 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") Art. 28; ICRC, IHL Database, Customary IHL, Rules 97, available at: [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul); Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, Art. 23;

<sup>52</sup> 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.

<sup>53</sup> Stéphanie Bouchié de Belle, "Chained to cannons or wearing targets on their T-shirts: human shields in international humanitarian law", IRRC, Vol. 90 no. 872 (2008), p. 886.

<sup>54</sup> ICTY, Prosecutor v Karadzic (Trial Judgment) IT-95-5/18, 24 March 2016, para. 526.; See also, 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, highlighting that 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."

<sup>55</sup> International Committee of the Red Cross (ICRC), IHL Database, Customary IHL, Rules 1, 7, available at: / [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul).

<sup>56</sup> Protocol I, Article 51(4).

<sup>57</sup> ICJ, *Legality of the Threat or Use of Nuclear Weapons* (Advisory Opinion), paras 78-79.

combatants as per the above mentioned provisions.<sup>58</sup> In case of doubt, the civilian status must prevail.<sup>59</sup>

Underpinning this provision is the inapplicability of reciprocity to “provisions relating to the protection of the human person contained in treaties of a humanitarian character, in particular to provisions prohibiting any form of reprisals against persons protected by such treaties.”<sup>60</sup> Notably, “[t]he obligation to respect and ensure respect for international humanitarian law does not depend on reciprocity.” The non-reciprocity of IHL provisions was recalled by the ICJ<sup>61</sup> as well as the International Criminal Tribunal for the Former Yugoslavia (ICTY)<sup>62</sup>, where reciprocity was further rejected as a defence. The claim that soldiers may be released from their obligation to respect international humanitarian law because the adversary had violated such was similarly dismissed by the Special Court of Cassation of the Netherlands<sup>63</sup> and the UN Military Tribunal.<sup>64</sup> Moreover, the fact that Palestinian civilians (fleeing military bombardments under Israeli displacement orders) are located within or around military objectives, does not absolve Israel of its responsibilities under IHL — Israel continues to bear the obligation to protect civilians and civilian objects from indiscriminate attacks, as provided by Article 57(8) of AP I.

Direct participation in hostilities is, with the principle of proportionality, the only caveat to the immunity of civilians. AP I provides that civilians cannot be attacked “unless and for such time as they take a direct part in hostilities.”<sup>65</sup> Direct participation in hostilities (DPH) requires “hostile acts carried out by individuals”.<sup>66</sup> IHL defines hostile acts as “acts which by their nature and purpose are intended to cause actual harm to the personnel and equipment of the armed forces’ of the enemy”.<sup>67</sup> A case-by-case approach is necessary to assess the “relevant facts of each victim and to ascertain whether, in each individual’s circumstances, that person was actively involved in hostilities at the relevant time”.<sup>68</sup>

In the case of civilians in Gaza allegedly used by Hamas as human shields, this requirement is not met. Human shields do not cause actual and direct harm to the enemy, which is required under the wording “direct participation in hostilities”. This wording suggests “a direct causal link between the act and the harm likely to result either from that act or from a coordinated

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<sup>58</sup> AP I, Article 50(1).

<sup>59</sup> *Ibid.*

<sup>60</sup> Vienna Convention on the Law of Treaty (1969), Article 60(5).

<sup>61</sup> ICJ, Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970) Advisory Opinion (para. 231).

<sup>62</sup> ICTY, *Prosecutor v Kupreškić* (Trial Judgment) IT-95-16-T (14 January 2000),

<sup>63</sup> Netherlands, Special Court of Cassation, *Rauter case*, para. 2018.

<sup>64</sup> United States, Military Tribunal at Nuremberg, *Von Leeb (High Command Trial)*, para. 219.

<sup>65</sup> Protocol I, Article 43(1).

<sup>66</sup> Nils Melzer, “Interpretive Guidance on the notion of direct participation in hostilities under international humanitarian law”, ICRC, p. 46.

<sup>67</sup> Y. Sandoz, C. Swinarski and B. Zimmermann (eds.), see above note 49, p. 633, para. 1943.

<sup>68</sup> ICTY, *The Prosecutor v. Dusko Tadić*, Judgement, 7 May 1997, Case No. IT-94-1-T, para. 616; see also Human Rights Council, above note 6, para. 61.

military operation of which that act constitutes an integral part”.<sup>69</sup> The causal relationship cannot “be stretched too far”, otherwise “just about anything could be seen as taking direct part in hostilities, including the passive attitude of the general civilian population, [...]. In that case, the fundamental principle of distinction would disappear and we would be giving *carte blanche* to total war”.<sup>70</sup>

Even if voluntary human shields were to be considered, the ICRC selected the example of human shields and took the view that “in operations involving more powerful weaponry, such as artillery or air attacks, the presence of voluntary human shields often has no adverse impact on the capacity of the attacker to identify and destroy the shielded military objective”. Physical shields refer to individuals who pose an obstacle to an attacker primarily through their physical presence, while legal shields protect a military objective by virtue of their legal immunity from attacks. The ICRC added that “[t]he very fact that voluntary human shields are in practice considered to pose a legal – rather than a physical – obstacle to military operations demonstrates that they are recognized as protected against direct attack or, in other words, that their conduct does not amount to direct participation in hostilities. Indeed [...] the causal relation between their conduct and the resulting harm remains indirect.”<sup>71</sup>

Therefore, Palestinians who stayed in targeted areas of Gaza where Hamas's presence is alleged do not lose *ipso facto* their protection against direct attack neither under the principle of distinction nor under the DPH rule. They must be treated in the same way as any other civilian and thus benefit from immunity from attack. If, upon case-by-case assessments of their involvement in hostilities, there are still some doubts as to their direct participation therein, their civilian status must be presumed. Targeting Palestinians in these circumstances amounts to the war crime of “[i]ntentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities”<sup>72</sup> with resulting deaths amounting to the war crime of “[w]ilful killing”,<sup>73</sup> which further constitutes a grave breach of the Fourth Geneva Convention.<sup>74</sup> While the targeting of civilians with an intent to destroy the Palestinian group, amounts to an act of genocide under the Genocide Convention.

## **2. Protection of civilian objects under the principle of distinction**

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

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<sup>69</sup> Nils Melzer, “Interpretive Guidance on the notion of direct participation in hostilities under international humanitarian law”, ICRC, p. 46, see also Sandoz, Swinarski and Zimmermann, see above note 49, p. 522, para. 1679.

<sup>70</sup> Stéphanie Bouchié de Belle, “Chained to cannons or wearing targets on their T-shirts: human shields in international humanitarian law”, IJIR, Vol. 90 no. 872 (2008), p. 895.

<sup>71</sup> Nils Melzer, “Interpretive Guidance on the notion of direct participation in hostilities under international humanitarian law”, ICRC, p. 57.

<sup>72</sup> Rome Statute of the ICC (1998), Article 8(2)(b)(i).

<sup>73</sup> Rome Statute of the ICC (1998), Article 8(2)(a)(i).

<sup>74</sup> Fourth Geneva Convention (1949), Article 147.

presumed not to be so used”.<sup>75</sup> For example, treating the entire northern area of Gaza as one single military objective blatantly violates the principle of distinction and amounts to an indiscriminate attack.<sup>76</sup> Indeed, Article 51(5)(a) of AP 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”.

Israel has designated a number of civilian objects, including churches, mosques, schools, universities, UNRWA facilities and hospitals as connected somehow to Hamas, resulting in defining a significant portion of the Palestinian civilian population as complicit and killable human shields.<sup>77</sup> It has resorted to “the idea of framing hospitals as carrying out a mission that is outside their humanitarian duty to justify strikes against them”.<sup>78</sup> In principle, hospitals are immune from attacks, except when their premises are used for military purposes. To this effect, Article 18 of the Fourth Geneva Convention provides that “[c]ivilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict.” Article 19 thereof limits this protection, which shall cease in case hospitals “are used to commit, outside their humanitarian duties, acts harmful to the enemy”.

Israel’s numerous attacks directed at hospitals in Gaza amount to the war crime of “[i]ntentionally directing attacks against civilian objects, that is, objects which are not military objectives”,<sup>79</sup> and “[i]ntentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives.”<sup>80</sup> Even assuming that Israel possessed evidence and gave a warning prior to its attacks, their proportionality would still have to be assessed. For the sake of the argument, we will analyse the compliance of one of these instances under the principle of proportionality. This does not mean that we recognise the legitimacy of the target and thus the legality of the attack under the principle of distinction.

## **2.1. The principle of proportionality**

Article 51(5)(b) of the 1977 AP I, which reflects customary international law,<sup>81</sup> prohibits attacks “which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete

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<sup>75</sup> 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/](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul/).

<sup>76</sup> Al-Haq, “Urgent: Israel’s Evacuation Order to 1.1 Million Palestinians in Gaza is Direct Forcible Transfer, Urgent Intervention is Needed”, 13 October 2023, available at: <https://www.alhaq.org/advocacy/21896.html>.

<sup>77</sup> Human Rights Council, see above note 6, para. 62.

<sup>78</sup> Julien Borger, IDF evidence so far falls well short of al-Shifa hospital being Hamas HQ, The Guardian (17 November 2023), <https://www.theguardian.com/world/2023/nov/17/idf-evidence-so-far-falls-well-short-of-al-shifa-hospital-being-hamas-hq>

<sup>79</sup> Rome Statute of the International Criminal Court (1998), Article 8(2)(b)(ii).

<sup>80</sup> Rome Statute of the International Criminal Court (1998), Article 8(2)(b)(ix).

<sup>81</sup> ICRC, IHL Database, Customary IHL, Rules 14, available at: <https://ihl-databases.icrc.org/en/customary-ihl/v1>

and direct military advantage anticipated”.<sup>82</sup> The presence of civilians around a military objective increases the probability that the expected incidental harm is regarded as excessive in relation to the anticipated military advantage. The standard to be applied when assessing the proportionality of an attack was defined by the ICTY as “whether a reasonably well-informed person in the circumstances of the actual perpetrator, making reasonable use of the information available to him or her, could have expected excessive civilian casualties to result from the attack”.<sup>83</sup>

As highlighted above, the definition of civilians under the principle of distinction is negative and thus general, without distinction whatsoever between those used as human shields and those who are not. It follows that, in assessing the weight of Palestinian casualties, all civilians must be considered equally. The proportionality calculation ought to be done by attackers and thus based on the information available to an attacker at the time of the attack, including the knowledge of the presence of human shields in the targeted area.

First, the idea that mass casualties can “be justified if the military advantage at stake is of great importance” is contrary to the fundamental rules of [API]” which “does not provide any justification for attacks which cause extensive civilian losses and damages.”<sup>84</sup> In other words, the principle of proportionality cannot be stretched to such an extent that its interpretation eventually violates the principle of distinction. Second, as mentioned above, reciprocity is irrelevant and cannot serve as a ground for the attackers to absolve themselves of their obligations under IHL. Finally, this constitutes a misconception of a military advantage, defined by IHL as “concrete and direct”, which strongly suggests that it cannot be “speculative, hypothetical,” or include “general benefits” and must instead be “quantifiable”.<sup>85</sup>

The International Criminal Tribunal for the Former Yugoslavia (ICTY), for example considered that the firing of artillery rounds at the apartment of Milan Martić and another location “created a significant risk of a high number of civilian casualties and injuries”. While Martić was an important military commander of the Serbian regional forces, the ICTY added that this risk was “excessive in relation to the anticipated military advantage”.<sup>86</sup> In the *Galić case*, a football field was hit by mortar shells, caused the death of 10 people and injured 100. The ICTY found that “[a]lthough the number of soldiers present at the game was significant, an attack on a crowd of approximately 200 people, including numerous children, would clearly be expected to cause incidental loss of life and injuries to civilians excessive in relation to the direct and concrete military advantage anticipated.”<sup>87</sup>

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<sup>82</sup> API, Article 51(5)(b).

<sup>83</sup> ICTY, *Prosecutor v. Galić* (Trial Judgment) IT-98-29-T, 5 December 2003, para. 58.

<sup>84</sup> Yves Sandoz, Christophe Swinarski and Bruno Zimmermann, Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949 (ICRC 1987) para. 626.

<sup>85</sup> ICRC, “The Principle of Proportionality”, p. 2.

<sup>86</sup> ICTY, *Prosecutor v. Ante Gotovina, Ivan Čermak and Mladen Markac*, Trial Chamber, Judgement, 15 April 2011, IT-06-90-T, para. 1910.

<sup>87</sup> ICTY, *Prosecutor vs. Stanislav Galić*, Trial Chamber, Judgment, 5 December 2003, IT-98-29-T, para. 387.

## **B. Israeli Soldiers Use of Palestinians as Human Shields Breaches International Law**

### **1. Conduct amounting to the use of human shields**

In Section III, we documented instances where the IOF forced Palestinian minors to walk or stand in front of them in combat areas, in order to be protected against hostile fire, which in one case caused the victim trouble to breathe because of tear gas spread around them.

In particular, the child K.A. was forced by Israeli soldiers to walk in front of them and open doors inside apartments. Similarly, the child 'M.M.' was coerced by the IOF into knocking at the doors of apartments, entering and searching them while Israeli soldiers were walking behind him. The case of M.S. is even more telling, he was ordered several times to open the doors of a building, despite his very young age, lack of strength, and a failed first attempt to do so. Once he succeeded, he was ordered to enter the building, followed by Israeli soldiers. Further, he was ordered by Israeli soldiers to walk in front of them in the street of Tulkarm, to ask Palestinians to evacuate their houses and to enter the evacuated homes and open the doors therein for nearly two hours.

In each of the instances, the material element of shielding, namely taking advantage of the presence or the movement of persons protected under IHL (in this case civilians) to protect combatants or military objectives, is satisfied. Indeed, Palestinian individual civilians were placed in front of Israeli combatants, who thus used their movements to shield themselves and favour their military operations. Hence, these soldiers took advantage of the movement of Palestinian civilians, advancing their military operations without being attacked. This appears in particular in the affidavit taken from Salem Obied, who told Al-Haq: "one of the soldiers fired several bullets while standing behind me with the barrel of his weapon above my right shoulder". The soldier thus took advantage of the situation, being able to shoot and preventing a hypothetical Palestinian resistance member from shooting back at him as this would result in injuring or killing Salem Obied. In the case of N.D., he was forced by Israeli soldiers to sit and crawl in a tunnel under a suspected mosque in Tulkarm, with two of them following him.

As for the intentional element of this violation, it requires the soldiers' intent to shield themselves and/or to favour their military operation. This intent can be inferred from the circumstances of these incidents, where the Israeli soldiers first gave instructions to the Palestinian shields to go to specific places in the context of the raids conducted by the IOF in the Tulkarm and Nur Shams refugee camps, and subsequently walked behind them. Hence, the IOF intentionally made Palestinians go to locations of interest for their operations where they thought they could be subjected to hostile fire by the "armed Palestinian youth from Tulkarm camp" or the "Tulkarm Camp Battalion", which were the names of the group one soldier accused K.A. and M.M. to be part of. These locations include underground tunnels, streets and apartments, and Israeli soldiers hid behind K.A., M.M., M.S., I.A., and N.D., utilising them as physical shields. In Gaza, Israeli snipers intentionally shielded themselves behind Masoud Abu Saeed at Al Nassar hospital, soldiers shielded themselves behind a Palestinian forcing him into a tunnel in Jabaliya, and another Palestinian youth was used as a human shield by Israeli soldiers as they searched his house. One Palestinian man was forced to wear an Israeli military uniform, demonstrating the intent to use him as a human shield.



That the IOF suspected potential hostile fire in these places is reflected in our affidavits, when, for example, an Israeli soldier asked K.A. if there were any men in the house. Further, N.D. told Al-Haq that the Ansar Mosque was subjected to violent attacks by the IOF because they suspected that the mosque and the tunnels under it and its surroundings were used for so-called terrorist purposes.

This conclusion that Israeli soldiers intended to shield themselves and favour their operations finds support in their repetitive conduct, using the same persons several times as human shields, as demonstrated for instance by the affidavit collected from K.A. who stated that the process he described, i.e. walking in front of the soldiers and opening doors, “was repeated in several rooms”. Similarly, M.M. was instructed to enter the apartments on the second and fourth floors of his building. As for I.A., he stated that he was coerced into entering houses and opening “all the closed doors” in four different places. M.A.S who was detained in Gaza, was repeated use as a human shield in Gaza.

In addition, the fact that the IOF used police dogs when walking behind M.S. and pointed a weapon at N.D. while following him in the tunnel indicated the intention of the soldiers to intimidate the Palestinian shields and instigate fear for the purpose of coercing them into completing their instructions. K.A. further testified that “all the time those dogs were close to my body”. M.M. made a similar statement. In Gaza, Mohammad Arabi Nasser Shabir, received death threats that Israeli forces would kill his mother and siblings, and M.A.S was similarly threatened with death, and beaten.

More generally, the intention to use Palestinians as human shields to physically protect the IOF, who clearly use them to limit casualties on the Israeli side, is inherent to the systematic pattern described and can be demonstrated through statements issued by the IOF such as: “It is better if they explode and not the soldiers”.<sup>88</sup> In light of the above, one can conclude that the acts documented and referred to in this urgent appeal amount to the prohibited use of human shields.

Considering that these incidents inflicted fear upon Palestinians, especially children, who were handcuffed and forced to go to dangerous locations such as underground tunnels, they amount to inhuman treatment, in breach of Article 27 of GC IV which reads:

Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.

Inhuman treatment constitutes a grave breach of IHL<sup>89</sup> and a war crime,<sup>90</sup> and when carried out with intent to destroy, an act of genocide.<sup>91</sup>

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<sup>88</sup> Ramona Wadi, “Israel’s creation and exploitation of Palestinian human shields”, *Middle East Monitor*, 17 August 2024, available at: <https://www.middleeastmonitor.com/20240817-israels-creation-and-exploitation-of-palestinian-human-shields/>.

<sup>89</sup> GC IV, Article 147.

<sup>90</sup> Rome Statute of the International Criminal Court, Article 8(2)(a)(ii).

<sup>91</sup> Genocide Convention, Art. 2 (c).

## **2. Violations of international human rights law**

K.A., M.M., M.S., I.A. are all children and thus protected under the 1989 UN Convention on the Rights of the Child, which protects their right to development.<sup>92</sup> As demonstrated above, the use of the “Johnnie Procedure” on Palestinian children has had detrimental impacts on their mental health, causing lasting trauma and impeding their natural development. M.M., said that as a result of his experience as a human shield, he now lives in a “state of shock and fear. The youngest of the children Al-Haq interviewed, M.S., who was only nine at the time of the event stated that he was very afraid when a police dog came closer to him and smelled him. In addition, Al-Ubaid, stated that he could not describe the intensity of the fears he felt when the soldiers took him from his apartment and coerced him into walking the stairs to the fourth floor of his building.

This fear grew when three Israeli soldiers violently and repeatedly beat him with a wooden stick known as the “qanwa”. M.M. was also beaten with the same stick while being detained by the IOF. Israeli soldiers not only detained these Palestinian children, but also all the building’s residents, as K.A. told us. This conduct may constitute an inhuman and degrading treatment prohibited by Article 16 of the Convention against torture and Article 7 of the International Covenant on Civil and Political Rights. Further, Article 9 of the same covenant protects the right to liberty and security of person and provides that “[n]o one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by the law.”

## **V. Conclusion and Recommendations**

By invoking IHL, Israel attempts to distract the public’s attention from the main legal framework that has been used to describe the situation in Gaza for months—the genocide framework—as can be seen in the proceedings before the ICJ. While the Israeli deliberate persecution and domination of Palestinians which qualify under international law as a system of apartheid is being entrenched in the West Bank, it has taken a more severe form in Gaza and caused the death of Palestinians on a much greater scale. Israel’s widespread pattern of denial of civilians’ protection under IHL only provides more evidence of genocidal intent, especially when added to Israeli statements.<sup>93</sup> We concur with Special Rapporteur Francesca Albanese’s assertion that Israel has sought to camouflage genocidal intent with humanitarian law jargon.<sup>94</sup> Israel is trying to justify the plausible commission of genocidal acts by setting the legal debate on the grounds of IHL, where its arguments are also inherently flawed.

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<sup>92</sup> Convention on the Rights of the Child, Art. 6 (2).

<sup>93</sup> 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. 57.

<sup>94</sup> Human Rights Council, above note 6, para. 62.

In light of the above, Al-Haq urgently calls on the relevant UN Special Procedures mandates to:

1. Publicly condemn Israel's systematic use of Palestinians, especially children, as human shields to protect Israeli forces from hostile fire, which amounts to a war crime;
2. Publicly condemn Israel's misinformation on the use of human shields by Palestinian resistance movement in the OPT;
3. Recognise and condemn Israel's intention, through the rhetoric of human shields, to eradicate Palestinian presence from the OPT and commit the crime of genocide;
4. Call for an arms embargo on Israel, the immediate cessation of hostilities and full withdrawal of unlawful Israeli presence from Palestine;
5. Call for international justice and accountability for genocide, including at the International Criminal Court, and before domestic courts by urging third States to activate universal jurisdiction mechanisms, for Israel's prohibited use of human shields and deliberate destruction of the Palestinian people.