



IS ISRAEL GUILTY OF GENOCIDE? – A DISCUSSION OF RAZ SEGAL’S CLAIM

Professor Raz Segal has described Israel’s military operation in the Gaza Strip as “textbook genocide”.¹ This note examines his reasoning.

What is genocide?

Genocide is defined in Article II of the [Genocide Convention of 1948](#) as committing various acts with intent to destroy a national, ethnic, racial or religious group as such, in whole or in part.² The specified acts are:

- killing or causing serious bodily or mental harm to members of the group,
- deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part
- imposing measures intended to prevent births within the group
- forcibly transferring children of the group to another group

Genocide thus requires two elements: (a) the specified intent and (b) acts within one or more of the specified categories committed with that intent.

Intent

Segal’s argument on intent is based on statements by Israeli senior officials who have “*command authority or responsibility*”. In our view, he has misinterpreted these statements and taken them out of their context. Properly understood in their context they do not constitute evidence of genocidal intent:

President Isaac Herzog

President Herzog was asked at a press conference on 13 October 2023 what Israel could do “*to alleviate the impact on over two million civilians in Gaza, many of whom have nothing to do with Hamas*”.³ In the course of replying to this question, he was reported to have said:

“It is an entire nation out there that is responsible. It is not true this rhetoric about civilians not being aware, not involved. It’s absolutely not true. They could have risen up. They could have fought against that evil regime which took over Gaza in a coup d’état.”

However, when asked to clarify whether he meant to say that this “*makes them, by implication, legitimate targets*”, Herzog responded: “*No, I didn’t say that.*”⁴

Whether fair or not, President Herzog’s answer was clearly not evidence of an intent to destroy a national, ethnic, racial or religious group in whole or in part.

It should also be noted that President Herzog’s comment is supported by subsequent research. According to a survey carried out in early November 2023 by Arab World for Research & Development (AWRAD)⁵ 75% of Palestinians in the West Bank (outside Jerusalem) and Gaza Strip support the Hamas-led attacks and 76% believe that Hamas plays a somewhat to very positive role. 98% reported feeling prouder of their identity as Palestinians.

Prime Minister Benjamin Netanyahu

Segal relies on statements by Prime Minister Netanyahu at a press conference on 28 October⁶ and in a letter to Israeli soldiers just before the ground offensive on 3 November⁷ in which he quoted from the Bible: *“Remember what Amalek did to you”*. The Bible says that Amalek must be destroyed.⁸ Segal suggests that the references to Amalek indicate a genocidal intent.

However, on both occasions, the references to Amalek were coupled with statements making it clear that Netanyahu was likening Hamas (not the Palestinian people) to Amalek and emphasising that Israel’s goal is to destroy Hamas. Hamas is not a national, ethnic, racial or religious group, and its destruction would not amount to genocide. Thus in the letter to Israeli soldiers the reference to Amalek is immediately followed by:

“We will always remember the horrific scenes of the massacre on Shabbat Simchat Torah, 7 October 2023. We see our murdered brothers and sisters, the wounded, the hostages, and the fallen of the IDF and the security services.

In their name and on their behalf, we have gone to war, the purpose of which is to destroy the brutal and murderous Hamas-ISIS enemy, bring back our hostages and restore the security to our country, our citizens and our children.”

Netanyahu has reiterated on numerous other occasions that the goals of Israel’s military operation are to destroy Hamas and release the hostages.⁹ These aims do not constitute the intent specified in the international definition of genocide. Netanyahu has also made statements discussing the future of the Gaza Strip after Hamas has been destroyed, which presuppose that the Palestinian population will remain there.¹⁰ These statements are inconsistent with genocidal intent.

Minister of Defence Yoav Gallant

Segal quotes Israeli Minister of Defence Yoav Gallant who stated on 9 October: *“We are imposing a complete siege on Gaza. No electricity, no food, no water, no fuel. Everything is closed. We are fighting human animals, and we will act accordingly.”*

This statement should be placed in the context of Israel’s legitimate aim to destroy Hamas following its barbaric attack on Israeli communities. Under international humanitarian law (IHL) Israel is entitled not to supply anything itself to a territory under enemy control and to prevent supplies by other parties if there are serious reasons for fearing that they will be diverted or will enable other supplies to be diverted to the enemy’s military use. There were serious reasons for fearing such diversion when Gallant made this statement. Seen in this context, Gallant’s statement on 9 October does not show the relevant intent.

Gallant subsequently confirmed that the objective was to destroy Hamas (and not to destroy the Palestinian people).¹¹

Following international discussions, arrangements were made that reduced the risk of diversion of certain supplies to military use, and supplies of food and water were then allowed into the Gaza Strip via the Rafah crossing from 21 October onwards. Supply of water through one of the three pipelines was resumed on 16 October¹² and later through a second pipeline follow repair of damage caused by Hamas in its attack of 7 October.¹³ Damage by Hamas to the third pipeline has not yet been repaired.

It does not appear that there has been mass starvation of Palestinians in the Gaza Strip. While a significant number of Palestinian civilians have been killed, these deaths have not been

linked to the siege. For further discussion of the legality of the siege, see our [Briefing Note on Siege, Humanitarian Supplies and Evacuations](#).

Former Prime Minister Naftali Bennett

Segal also refers to a comment by former Prime Minister Naftali Bennett. Segal accepts that Bennett cannot be accused of genocide since he no longer has command authority, but suggests that he could be accused of incitement. The cited comment was: *“Now, the world can come and bring them anything they want. If you wanna bring them electricity, I’m not gonna feed electricity or water to my enemies. If anyone else wants, that’s fine. We’re not responsible for them.”*

This comment accurately summarised the relevant IHL in colloquial language. There is no obligation on a State engaged in an armed conflict to supply food, fuel, electricity or medical supplies to a territory under enemy control. To the contrary, there is an obligation under UN Security Council Resolution 1373 on all States not to provide economic resources or any form of support directly or indirectly to terrorists.¹⁴ On the other hand, there is an obligation to allow essential humanitarian supplies to civilians by third parties, provided there are not serious reasons for fearing diversion to military use.

Former Deputy Foreign Minister Danny Ayalon

Segal refers to a suggestion that Palestinians from the Gaza Strip should move to the Sinai desert, which he regards as an indication of genocidal intent, likening it to the Armenian genocide. This appears to be derived from an interview by Al Jazeera of former Deputy Foreign Minister Danny Ayalon.¹⁵

Ayalon does not have any command authority. He made it clear in the interview that he was talking about a temporary evacuation during Israel’s military operation against Hamas and that the evacuated Palestinians would be provided with tents, food and water. The proposal was a non-starter, since Egypt did not agree to it. In any event it did not indicate any intent to destroy Palestinians as a national, ethnic, racial or religious group. On the contrary, it was an attempt to keep Palestinians safe while Israel carried its objective of destroying Hamas.

Actions

Segal makes many allegations regarding the Israeli military operation that are strongly disputed by the Israel Defence Forces (IDF). Segal is not an expert in either IHL or military tactics and he does not know what information was possessed by the IDF regarding the targets it attacked, the expected civilian casualties and damage in each case, the precautions taken to avoid them, and the many other facts relevant to any proper assessment of compliance with IHL.

He appears to ignore the fact that IDF attacks are checked for compliance with IHL by lawyers who sit outside the chain of command. He asserts that the IDF has used white phosphorus in the current conflict, even though the IDF has denied this and had stated in 2013 that it was phasing out the use of white phosphorus.¹⁶ He even sees efforts by the IDF to evacuate areas of expected military operations in order to reduce civilian casualties as a form of ethnic cleansing associated with genocide.

Although serious and tragic, the number of Palestinian civilians killed so far, including those killed by Palestinian fire, is less than 1% of the population of the Gaza Strip, despite the difficulties caused by the operation of terrorists in, around and underneath civilian buildings.¹⁷ Fewer Palestinians have been killed (by any munitions, including Palestinian

fire) than the number of strikes by the Israeli air force – i.e. on average each air strike has killed less than one Palestinian.¹⁸ Israel could have killed many more Palestinians if it were intent on genocide. The lengths to which Israel goes to reduce civilian casualties¹⁹ is itself a negation of genocidal intent.

Conclusion

In summary, the statements of Israeli leaders cited by Segal, when read in their context, do not evidence the intent required for genocide, and the facts indicate the contrary.

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- ¹ <https://jewishcurrents.org/a-textbook-case-of-genocide>; www.youtube.com/watch?v=AUeEnjULHe0&t=748s
 - ² The same definition is used in Art.6 of the Rome Statute of the International Criminal Court
 - ³ www.itv.com/news/2023-10-13/israeli-president-says-gazans-could-have-risen-up-to-fight-hamas
 - ⁴ www.huffingtonpost.co.uk/entry/israel-gaza-isaac-herzog_n_65295ee8e4b03ea0c004e2a8
 - ⁵ www.awrad.org/files/server/polls/polls2023/Public%20Opinion%20Poll%20-%20Gaza%20War%202023.pdf; <https://jcpa.org/a-new-poll-of-palestinians-supporting-terror-and-rejecting-peace/>
 - ⁶ www.timesofisrael.com/liveblog_entry/netanyahu-goal-of-war-is-to-defeat-the-murderous-enemy-ensure-our-existence-in-our-land/#:~:text=At%20a%20press%20conference%20in,cabinet%20and%20the%20security%20cabinet.
 - ⁷ www.gov.il/en/departments/news/spoke-pmo031123
 - ⁸ Deuteronomy 25:17-19: “Remember what the Amalekites did to you along the way when you came out of Egypt. When you were weary and worn out, they met you on your journey and attacked all who were lagging behind; they had no fear of God. When the Lord your God gives you rest from all the enemies around you in the land he is giving you to possess as an inheritance, you shall blot out the name of Amalek from under heaven. Do not forget!” The relevance of the reference is discussed by Rabbi Goldstein, Chief Rabbi of South Africa at www.youtube.com/watch?v=cdq2lBnZe7Q
 - ⁹ e.g. www.aljazeera.com/news/2023/10/29/netanyahu-says-war-entering-second-stage-as-troops-push-into-gaza; www.foxnews.com/world/netanyahu-says-israel-must-destroy-hamas-secure-palestinian-future; www.cnn.com/middleeast/live-news/israel-hamas-war-gaza-news-11-28-23/h_28f835dc9430d051088081bf40a69dab; <https://tass.com/world/1713801>
 - ¹⁰ e.g. www.npr.org/2023/11/17/1213684429/benjamin-netanyahu-israel-hamas-gaza#:~:text=Netanyahu%20said%20Israel%20must%20maintain,is%20Israel%2C%22%20Netanyahu%20s aid.; www.aljazeera.com/news/2023/11/10/netanyahu-says-not-seeking-to-occupy-gaza-but-strip-must-be-deradicalised; www.reuters.com/world/middle-east/israel-says-palestinian-authority-current-form-should-not-run-gaza-2023-11-12/
 - ¹¹ www.timesofisrael.com/gallant-says-after-hamas-vanquished-israel-will-seek-new-security-regime-in-gaza/
 - ¹² www.reuters.com/world/middle-east/hamas-says-gaza-water-still-cut-off-israel-says-some-provided-south-2023-10-16/
 - ¹³ www.timesofisrael.com/israel-reopens-second-of-three-water-pipelines-into-gaza/
 - ¹⁴ This Resolution was passed under Chapter VII of the UN Charter and is binding on all UN member states.
 - ¹⁵ www.aljazeera.com/program/upfront/2023/10/13/are-israel-and-hamas-guilty-of-war-crimes
 - ¹⁶ www.theguardian.com/world/2023/oct/13/israel-military-white-phosphorus-gaza-lebanon
 - ¹⁷ See e.g. www.timesofisrael.com/liveblog_entry/us-confirms-israeli-claim-that-hamas-using-gaza-hospitals-including-shifa-for-military-operations/#:~:text=The%20Biden%20administration%20confirms%20long,hospitals%20for%20its%20military%20purposes.; www.bbc.co.uk/news/world-middle-east-67097124; <https://economictimes.indiatimes.com/news/defence/eu-nations-condemn-hamas-for-what-they-describe-as-use-of-hospitals-civilians-as-human-shields/articleshow/105186218.cms>; www.youtube.com/watch?v=D4xVqsb2v9w; <https://twitter.com/IDF/status/1727409278636478519>
 - ¹⁸ <https://edition.cnn.com/gaza-israel-big-bombs/index.html#:~:text=Last%20week%2C%20US%20intelligence%20sources,densely%20populated%20territories%20like%20Gaza.>
 - ¹⁹ www.bbc.com/news/world-middle-east-67327079