

9 November 2023

Dear Prime Minister, Dear Defence Secretary,

We the undersigned – UK-based former members of the judiciary, legal practitioners and legal academics – write further to a previous letter sent on 26 October 2023 concerning the situation in the Middle East (hereto attached). That letter was sent originally on behalf of over 250 of us. We now number over 830, including 60 KCs, more than 125 partners / directors, and over 80 professors of law and other legal academics.

The impact of the conflict on the population of Gaza has grown ever-more stark. 10,569 Palestinians have been killed in Gaza since 7 October 2023, according to figures reported by the United Nations Office for Humanitarian Affairs (OCHA), 67 per cent of whom are said to be children and women.¹ 548 Palestinians were reportedly killed in Gaza between 6 November and 7 November alone.² A further estimated 2,450 people have been reported missing, believed to be trapped or dead under the rubble. At least 45 percent of the housing stock in Gaza has been destroyed or damaged, and people are struggling to secure the minimum amounts of water and food to survive. An estimated 1.56 million people out of a population of 2.1 million are internally displaced.³

Children account for 4,237 of the identified Palestinian fatalities and at least 1,350 of the missing,⁴ leading the United Nations (UN) Secretary General, António Guterres, to declare that “*Gaza is becoming a graveyard for children*”.⁵ At least 192 medical staff have been killed, as well as 89 staff members of the UN Relief and Works Agency (UNRWA) and at least 32 journalists. The World Health Organisation has recorded 110 attacks on health care facilities, including 22 hospitals and 36 ambulances.⁶ All 13 still-operational hospitals in North Gaza, including Gaza City, have received Israeli Army evacuation notices. Due to the lack of medical supplies, they are conducting complex surgeries, including amputations and caesarean sections,⁷ without anaesthesia.⁸

Since 7 October 2023, 158 Palestinians, including 45 children, have been killed by Israeli forces or settlers in the West Bank. That accounts for more than one-third of all killings of Palestinians in the West Bank in 2023 (397). Three Israelis have been killed by Palestinians in the West Bank. 1,067 Palestinians, including 437 children, have been displaced from their homes due to settler violence, access restrictions and/or house demolitions, including punitive house demolitions.⁹

The UN Secretary General has repeatedly called for a ceasefire, asserting that “*the nightmare in Gaza is more than a humanitarian crisis. It is a crisis of humanity*”.¹⁰ Seven UN Special Rapporteurs have reiterated their warning that “*the Palestinian people are at grave risk of genocide*”.¹¹

This round of Israeli military attacks on Gaza followed an unprecedented attack by Hamas in Israel on 7 October 2023. To date, approximately 1,400 Israelis and foreign nationals have been killed in

¹ United Nations (UN) Office for the Coordination of Humanitarian Affairs (OCHA), [Hostilities in the Gaza Strip and Israel | Flash Update #33](#) (8 Nov 2023); and [Reported Impact – Day 33](#) (8 Nov 2023). Figures are up to date to 8 November 2023. OCHA collates locally collected data.

² OCHA, [Hostilities in the Gaza Strip and Israel | Flash Update #32](#) (7 Nov 2023); and [Reported Impact – Day 32](#) (7 Nov 2023).

³ *Ibid.*, fn 1.

⁴ *Ibid.*

⁵ UN Secretary General, ‘[Gaza ‘Becoming a Graveyard for Children’, Warns UN Secretary-General, Calling for Humanitarian Ceasefire](#)’, *Press Release* (6 Nov 2023); see also: <https://www.unicef.org/press-releases/gaza-has-become-graveyard-thousands-children>.

⁶ *Supra*, fn 2.

⁷ UN, ‘[5,500 women in Gaza set to give birth ‘in race against death](#)’, UN News (6 Nov 2023).

⁸ *Supra*, fn 2.

⁹ *Supra*, fn. 1.

¹⁰ *Supra*, fn. 1.

¹¹ UN, ‘[Gaza is ‘running out of time’ UN experts warn, demanding a ceasefire to prevent genocide](#)’, UN News (2 Nov 2023).

Israel, according to figures reported by OCHA, the vast majority on 7 October 2023. Of those whose ages have been provided, 31 are children. Rockets continue to be fired from Gaza into Israel,¹² leading to the continuing displacement of thousands of Israelis.

239 Israeli and foreign nationals captured on 7 October 2023 are still held hostage in Gaza, including, a reported 30 children. To date, four civilian hostages have been released by Hamas, and one female Israeli soldier was rescued by Israeli forces. It is claimed that 57 of the hostages have been killed in Israeli airstrikes.¹³

As underscored in the letter of 26 October 2023, the UK is duty-bound to “*respect and ensure respect*” for international humanitarian law as set out in the Four Geneva Conventions in all circumstances (1949 Geneva Conventions, Common Art 1). That means that the UK must not itself violate international humanitarian law, as set out therein and that it must neither encourage, nor aid or assist its violation by others. Common Art 1 is also interpreted as incorporating a duty on States to do everything in their power to prevent or bring to an end any such violations of the law by other parties (ICRC Commentaries).¹⁴ That is further to the UK’s obligation to search for and bring before its courts those alleged to have committed grave breaches of the Geneva Conventions (Fourth Geneva Convention, Art 146). As a State party to the Genocide Convention, the UK Government is also required to act to prevent genocide where there is a risk of genocide occurring.

In light of the above, we reiterate the urgent calls made in the letter of 26 October 2023, pursuant to the above obligations, for the Government:

- (1) urgently to exert its influence to secure a ceasefire in Gaza and the West Bank, and to ensure the urgent and adequate provision of food, fuel, medicine and other humanitarian assistance to Gaza, and the unconditional restoration of water and electricity; the protection of medical facilities; and the facilitation of safe passage for the critically ill and those requiring treatment abroad;
- (2) to use its best endeavours to secure the urgent return of the hostages;
- (3) immediately to halt the export of weapons from the UK to Israel, given the clear risk that they might be used to commit serious violations of international humanitarian law in breach of the UK’s domestic Strategic Export Licensing Criteria,⁸⁷ including its obligations under the Arms Trade Treaty; and
- (4) to act urgently, together with the wider international community, pursuant to the UN Charter, Art 1, to ensure that the fundamental rights – including the human rights – of both Israelis and Palestinians are upheld, and to work towards a just, lasting and sustainable peaceful settlement for all those in the region, including those in the now devastated Gaza Strip.

We recall that UK nationals responsible for aiding and abetting war crimes, as well as those committing them as primary perpetrators, are liable for prosecution in the UK pursuant to the Geneva Conventions Act 1957 and the International Criminal Court Act 2001, as are foreign nationals for breaches of the Geneva Conventions Act 1957. Nationals of States parties to the Rome Statute of the International Criminal Court – including UK and Palestinian nationals – as well as nationals of other countries – including Israel – committing war crimes in the occupied Palestinian territory, consisting of the West Bank (including East Jerusalem) and Gaza, would similarly be liable for prosecution before

¹² *Supra*, fn 1.

¹³ *Supra*, fn 1.

¹⁴ See, e.g., ICRC, [Convention I for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field](#), Geneva, 12 August 1949, Commentary of 2016, Chap I: General Provisions, Art 1: Respect for the Convention, Section E.3, paras 153-173.

the International Criminal Court (ICC), as part of the investigation of the ICC's Office of the Prosecutor into "the situation in the State of Palestine".¹⁵

Given the utmost seriousness of the matters raised herein and the ever-mounting civilian death toll, we look forward to an urgent response from you to this letter.

Yours sincerely,

The Undersigned

¹⁵ ICC, [State of Palestine: Investigation ICC-01/18](#) (3 Mar 2021), *per* Arts 12.2.a and b and Art 13.a of the Rome Statute; see also the ICC Prosecutor, [Statement of ICC Prosecutor Karim A. A. Khan KC from Cairo on the situation in the State of Palestine and Israel](#) (30 Oct 2023).