

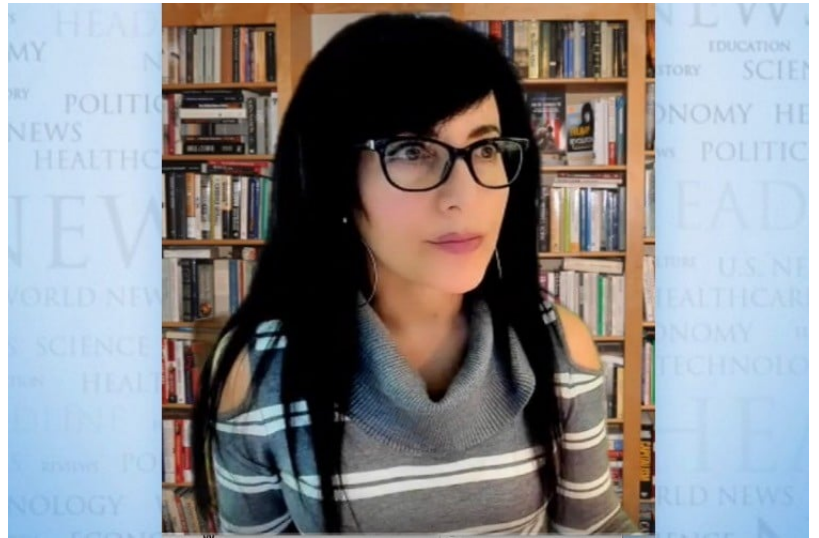


Written by [Ilana Mercer](#) on April 7, 2024

## Why Genocide: Every Law of War Violated

*Israel's war is not a war by any known definition.*

*Four conditions of genocide fulfilled, not one law of war heeded: In the course of its genocidal campaign, Israel has violated every law of war codified in Customary International Humanitarian Law.*



Ilana Mercer

A ceasefire is called upon in war. Israel's onslaught on Gaza is not a war.

"Ceasefire" is [defined](#) as "an agreement, usually between two armies, to stop fighting in order to allow discussions about peace." Israel's onslaught on Gaza is not a war by any definition. These are not two armies arrayed one against the other. This is no war between opposing warrior forces. There is no parity here.

Why is Gaza 2023/2024 not a war?

If combat veteran Alan Shebaro, U.S. Special Forces, fails to convince you with his experience, I will follow with fact, law, and reason. [Listen](#) to Shebaro tell it to a Texas City Council in McKinney:

I know war. What is going on in Palestine right now is not a war. It is the dehumanization, it's the genocide, it's the ethnic cleansing of a specific people to take their land. This is wrong.... I've seen horrible things, but this [Gaza] takes it to an entirely new level.

Does any military man half-decent swallow the lie that, in its orgiastic annihilation of Gaza, Israel is fighting another army fair and square?! Also a misnomer is the phrase "military operation." It mocks out of meaning any linguistic convention that attaches words to the things they signify.

Valor was thus lost, not stolen, when, on October 24, 2023, Colonel Jack Jacobs, a retired U.S. Army veteran — and a man who valiantly spoke up against the invasion of Iraq ([ditto](#)) — noodled on about Israel's "expanding ground operations." Once a principled voice, Colonel Jacobs lost respectability, right there, for there is no military operation an upstanding military man can get behind in Gaza, *where easily 80 percent of the casualties are innocent civilians.*

Hip to this last fact is U.S. Defense Secretary Lloyd Austin. In a quickly retracted statement, Austin [told Congress, on February 19](#), that "more than 25,000 women and children had been killed by Israel in Gaza since October 7."

The Pentagon later "clarified" that estimate, insisting that, because the figure came from the Hamas-



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run Gaza health ministry, not U.S. intelligence, it was unreliable. During that [February congressional hearing](#), Austin had been asked how many Palestinian women and children had been killed by Israel. “It is over 25,000,” he reflexively blurted out. This, according to the Pentagon, was but a monetary lapse of reason.

U.S. baffle gab contradicts what [I referred to, on January 4](#), as the “your lying eyes” standard, to use [Richard Pryor’s wry phrase](#) for he who has been caught in *flagrante delicto*:

As they were turning Gaza into Dresden on TV, before our very eyes, Israel’s quicksilver state propagandists were also telling us, their American funders, that “this is not happening.... Who are you going to believe? Democratic Israel, or your ‘lying eyes’?” I believe my “[lying eyes](#),” thank you very much. Those “lying eyes” speak to the scale of Israel’s depredations against Gazans.... [And the numbers of dead, injured, and displaced] are deemed “broadly reliable,” by all reputable humanitarian, aid-rendering organizations worldwide, backed as they are by the science of satellite and radar.

Let us indulge Secretary Austin’s already out-of-date estimate in order to establish here that Israel’s “operation” is not a military operation behind which any military man worth his salt can stand.

Assume that 25,000 is the number of *women and children* murdered by Israelis, although it is more, not less, considering that thousands are buried beneath the rubble and more souls are being assassinated as we speak. To wit, in the 24 hours following the Security Councils’ vote, [76 Palestinians were murdered in Gaza](#).

If 30,000 is the total — men and women, combatants and civilians — murdered heretofore, then *women and children make up 83.3 percent of this total*.  $(25,000/30,000) \times 100$

If 32,000 is the total number of souls slain to date, *then the percentage of women and children is 78.1*.  $(25,000/32,000) \times 100$

If a total of 33,000 human beings were slaughtered, then *the percentage of women and children among them is 75.5*.  $(25,000/33,000) \times 100$

And if the number killed rises to 35,000, as it has, and the number of *women and children* assassinated is, by some miracle, held constant, their *percentage* would still constitute  $(25000/35000) \times 100 = 71.4$ .

Israel’s war is not a war by any definition.

Unctuous UN ultimatums notwithstanding, as of March 21, Netanyahu had [vowed](#) to continue his evil clown’s campaign — so “[handsomely equipped to fail](#)” your columnist observed in November — executed by a corrupt, clownishly inept, and consistently depraved army.

Why, then, are Israel’s 2023-2024 actions in Gaza genocidal?

In a November 2, 2023 essay, “[Bibi Obliterates Memory of October 7 Martyrs; Creates New Martyrs in Gaza](#),” I explained why, logically at least, Israel has met the threshold for criminal intent, *mens rea*:

If you know in advance that your actions will cause the deaths of thousands-upon-thousands of civilians, attached to your criminal actions (*actus reus*) is a guilty mind (*mens rea*), which means [malice aforethought](#), also known as intent, in Western jurisprudence and judicial philosophy.



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The razing and ethnic cleansing of Gaza by Benjamin Netanyahu, abetted by Joe Biden and his Uniparty accomplices, in the course of which tens of thousands civilians are dying, is murder with malice aforethought, a concept that includes [“deaths resulting from actions that display a depraved indifference to life.”](#) Further depraved indifference to life was Israel’s throttling of supplies of water, food, and power to the millions of aid-dependent Gazans, as Israel knew full well this would imperil civilians indirectly.

More than industrial-scale mass murder of individual people, Israel is engaged in the eradication of Gazans as a People.

Objectively speaking, what Israel has visited on Gazans and their little enclave is not self-defense, but irreparable, wanton mass murder, [a “blitzkrieg, by any other name,”](#) combined with ethnic cleansing and an orchestrated program of starvation against helpless civilians who are still being indiscriminately and daily bombed, buried — alive and dead — evicted for life.

Even though more than [80 percent of the Palestinians of Gaza](#) have been driven from their homes — have no homes to return to — and though more than 70 percent of structures in Gaza are gone, pulverized by the IDF, so-called interdiction missions by the Israeli Air Force (IAF) are ongoing in [“flagrant violation of its obligations under international law, both as an occupying power and as a party to the hostilities”](#) (via *Gisha*), and “in blatant breach of core provisions under the Geneva and Hague Conventions.”

So [say](#) an international law consortium out of a Middlesex University London. So [say](#) countless reputable human-rights organizations, who have [submitted](#) amicus briefs in American courts to enjoin President Biden, Secretary of State Blinken, and Secretary of Defense Austin from providing weapons and other forms of support for Israel’s Total War on Palestinian civilians in Gaza. Hoping to skirt jurisdictional limitations, [“the U.S.-based Center for Constitutional Rights”](#) has been joined by “an esteemed array of individuals and organizations from around the world, including 139 NGOs.”

Evidence of Israel’s trespass is everywhere.

As I write, raids on the Al Shifa hospital, begun on March 19, continue apace. As of March 22, [Israel’s fourth raid](#) on what remains of this hospital was in progress. Over 140 doctors, patients, journalists, and other refugees had been summarily executed, [reports](#) the indefatigable Amy Goodman of “Democracy Now!” Thousands of refugees crammed into the hospital are currently being turned out, evicted.

All to “thwart terrorism.” Its missionary pursuit of murder in hospitals Israel blankets with tidy lies.

Israel’s Hamas-made-me-do-it [religious doctrine](#) — this concealing of the truth for the faith — insults the intelligence. To listen to the [Taqiyyah](#) practiced by these Uncle Sam-sponsored Svengalis, “Palestinians are all terrorists.” Or “terrorist accomplices.” “Israel has effectively characterized the whole population in Gaza as human shields or terrorist accomplices as a matter of legal policy,” observed Francesca Albanese, speaking at the UN Human Rights Council in Geneva, where she presented her report [“Anatomy of a Genocide.”](#) Albanese is a scholar and a UN special rapporteur on the human-rights dispensation in the West Bank and Gaza. On March 27, she issued [her report](#), which found “reasonable grounds” to conclude that Israel is culpable of genocide in Gaza.

Gamely repeating Israel’s mantras, Matthew Miller, spokesperson for the U.S. Department of State, [labeled and libeled](#) Albanese as an “antisemite.” Yes, terrorism. Also, antisemitism if you disagree with Israel, or dare to disbelieve a country whose coin of the realm has become state terror.



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On March 8, International Women’s Day, the [United Nations](#) detailed the warp and woof of survival as a woman in Gaza. At that time, 9,000 Palestinian women had been slaughtered by the IDF; 63 women were being slain daily by the same force, including 37 mothers, each and every day.

While the women’s guerrilla movement, stateside, is galvanizing to go to the polls to ensure their right to evict fetuses from their wombs, Gaza’s women are fighting to keep their fully formed babies alive, fed, and safe from unguided bunker-buster bombs lobbed by Israel and provided by America.

Again, [around 80 percent of Gazans](#) have been driven from their homes. More than 70 percent of structures in the Gaza Strip were [reported](#) demolished or damaged three months ago by the [Wall Street Journal](#). More current satellite radar is available, courtesy of researchers such as [Jamon Van Den Hoek](#). His March 13 mapped destruction via satellite [reads thus](#):

**In North Gaza**, 69.7 percent of buildings have been destroyed or damaged.

**In Gaza City**, it’s 73.7 percent.

**In Deir El-Balah**, it’s 54.1 percent.

**In Rafah**, an Israeli “work” in progress, 29.5 percent of buildings have been destroyed or damaged.

Gazans have no residences or industries — no life-sustaining infrastructure — to return to upon the implementation of a permanent ceasefire. Gone are their homes, places of work and worship — businesses, agriculture, fisheries, food-production industries, and the arable land attached. Gone are the roads, power plants, sanitation and drainage works, water wells and wastewater treatment plants, conduits of electricity, potable water, shelter, and food distribution.

Mosques, churches, and schools (primary, secondary, and tertiary) have been vaporized. Most hospitals, too. Dr. Mads Gilbert, a Norwegian academic, clinician, and longtime volunteer in the occupied territories, [speaks to](#) “never-before-seen viciousness; sadism beyond evil.” Gaza had a network of European-style teaching hospitals, where evidence-based medicine was practiced. Out of more than 30 such hospitals, about three remain in tatters. Hundreds of the Strip’s top healthcare providers, who served heroically until hit, have been murdered, often while ministering to patients. The Palestinians of Gaza are now perishing from sepsis, curable and treatable diseases, starvation and dehydration, all overseen by Israel. ([According to Gisha](#), which means “access” in Hebrew.)

Lost with Gaza’s infrastructure is the very fabric of a society — immeasurable human capital — including indissoluble, extended-family networks, the kind of generational bonds we in the West can only dream of, whittled down and depleted in numbers and in their native energy. A people’s cemeteries and archived history have been decimated, their antiquities and artifacts bulldozed and pillaged, their universities flattened, their artists and intellectuals hunted from house to house and extinguished.

Broken, Tariq Haddad, MD, an American cardiologist, told of 100 members of his extended family eliminated. Images of beautiful people, in the full flowering of their vitality (most were highly educated), flashed across the “[Democracy Now!](#)” broadcast’s screen. In February, Dr. Nasser Abu-El-Noor, dean of the [Faculty of Nursing at the Islamic University of Gaza](#), along with seven members of his family, sheltering in their home, were murdered. Dr. Medhat Saidam, a renowned plastic surgeon, is [buried beneath a building](#).

Were the High Court in the Hague ever to do its job and engage forensic electronics to that end, it could easily trace the psychological warfare waged, say, against [Dr. Refaat Alareer](#). He had figured out that “There’s nowhere safe in Gaza, so he chose to stay in his house.” By guerrilla journalist Max



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Blumenthal's telling, Alareer and family, as they fled from one abode to the next, were sadistically hounded, telephonically, by IDF officers. The IDF finally assassinated him and [six members of his family](#). Myself, I followed a young journalist, [Ayat Al Khaddour](#), who vlogged heroically from her home in Gaza until she was no more, stopped, along with members of her family, by an IDF-lobbed "precision" bomb.

Israel has clearly and systematically eliminated the human capital of Gaza in ways diabolically purposeful, irreparable, and unforgivable. The best of Gaza are gone; entire Palestinian family trees truncated forever. Why purposeful? Just as the U.S.-backed Israeli military knows the precise azimuths of their targets, including that of the assassinated Refaat Alareer, in the same vein do Israelis have the GPS coordinates of "major infrastructure projects funded by the U.S. government." These, [reports the Associated Press](#), have been largely spared.

All this is what Article II of the Genocide Convention means by clause number four: "Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part." (Amnesty International: *Genocide: The Legal Basis For Universal Jurisdiction*.)

To Israel's rap sheet add at least three additional genocidal actions stipulated in Article II of the Genocide Convention, perpetrated "with intent to destroy, in whole or in part, a national, ethnic, racial or religious group" (*Ibid*). These are:

- Killing members of the group.
- Causing serious bodily or mental harm to members of the group.
- Direct and public incitement to commit genocide.

Four conditions of genocide fulfilled, not one law of war obeyed. In the course of its genocidal campaign, Israel has violated every law of war, codified in Customary International Humanitarian Law.

Israel has violated the law of [proportionality](#):

Launching an attack 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 and direct military advantage anticipated, is prohibited. (Jean-Marie Henckaerts and Louise Doswald-Beck, [Customary International Humanitarian Law](#), 2012, Cambridge University Press, 2012)

Israel has violated the [principle of distinction](#):

The undisputed cornerstone of international humanitarian law (IHL) is the principle of distinction between civilians and combatants, which obliges belligerents to distinguish at all times between persons who may be lawfully attacked, and persons who must be spared and protected from the effects of the hostilities. In order to avoid any ambiguity, these two categories of persons must be mutually exclusive. (*Ibid*)

The law of distinction is an "[intransgressible principles of international customary law](#)" (Nils Melzer, *The Oxford Handbook of International Law in Armed Conflict*, Oxford University Press, 2015)

Israel has violated the [principle of precautions in attack](#):



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In the conduct of military operations, constant care must be taken to spare the civilian population, civilians and civilian objects. All feasible precautions must be taken to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects. (Jean-Marie Henckaerts and Louise Doswald-Beck, [Customary International Humanitarian Law](#) (2012), Cambridge University Press, 2012)

Only neolithic beasts such as [Jonathan Conricus](#) or IDF mouth Keren Hajioff, former IDF spokesmen for Israel's war of annihilation in Gaza, would have the gall to praise the care uniformed IDF take with human life. In case you've missed these Israeli bulwark bureaucrats, Conricus and Hajioff are now fellows at the American Foundation for Defense of Democracies in Washington, D.C., as a perusal of the [FDD member page](#) would indicate. Following stints in which they mindlessly chorused for and covered up the goings-on in Gaza, Conricus and Hajioff have migrated to an American "think tank," likely promoting the interests of entities not the United States, and overriding the balancing forces of regionalism in the Middle East.

In any event, it is writ in [Customary International Humanitarian Law](#) that "[Specifically Protected Persons and Objects](#)" be protected: Medical ("[685 health workers have been killed and 900 wounded](#)"), religious personnel and objects, humanitarian relief personnel ([196 killed](#)) and objects, personnel and objects involved in a peacekeeping mission, civilian journalists ([103 dead](#)), cultural property, and the natural environment. In Gaza, these numbers are rendered obsolete by the hour.

Still, nothing excites shame in Israeli leaders. Very many of them, including the prime minister, have [called on IDF soldiers to show no mercy](#). This, too, International Law forbids. Quaintly put, prohibited are "[directions to give no quarter](#)," as in "threatening an adversary therewith or conducting hostilities on this basis." Prohibited.

"Genocide is a process, not an act," [explains](#) the aforementioned Francesca Albanese. It is the "destruction of a population from its roots." Lara Elborno, another articulate human-rights lawyer, has [ventured](#) the following clincher, and I paraphrase:

Had Israel not dropped a single bomb on Gaza, but had done no more than cut off food, water, and electricity to its 2.3 million residents, these actions alone would suffice to constitute genocide under the treaties.

## **Rafah**

Violence hangs in the air. In truth, it was mid-February when the Israel Defense Forces had commenced its onslaught on 1.5 million Palestinian refugees, who had been corralled from the north to the south, and now huddle helplessly in Raffah.

In its ravaging appetite for destruction, Israeli leadership had explicitly conveyed that it would "not relent in [its] assault on the Gaza Strip until they've effectively accomplished the destruction of the entire strip. And their attacks now on Rafah, in particular, demonstrate that the last refuge, the last piece of the Gaza Strip that hasn't been effectively destroyed, is not only in their sights, but already under their bombs." (Criag Mokhiber, "[Democracy Now!](#)," March 26)

According to [Customary International Humanitarian Law](#), cited so far, "Directing an attack against a zone established to shelter the wounded, the sick and civilians from the effects of hostilities is prohibited." (Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law*, 2012, Cambridge University Press, 2012, [Chapter 11 — Protected Zones](#).)



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Israeli leadership, political and other, pollute the ear with an unbroken stream of genocide-justification jargon. The barbaric nature of their discourse complements their army's actions. "[Conspicuous and ostentatious](#)" about their depredations, the uniformed IDF appear proud to revel in terrorizing and murdering Palestinian civilians. In general, YouTube runs cover for the IDF. Still, there are countless videos of nauseating brutality, in which, as though in a video game, IDF soldiers [vaporize young men picking their way through rubble](#). They mock their victims, invade their homes, filch from their businesses, and rummage through the piteous [intimate effects](#) of people dead and dispossessed. Other acts of defilement are too lewd to recount. (See BBC News' "[Israeli soldier videos from Gaza could breach international law, experts say](#)." Or, watch Glenn Greenwald's "[Shocking IDF Social Media Videos Mock Gazans — Expose New Atrocities](#).")

As after the Holocaust, [responsibility for decent reparations](#) — Israelis to the Palestinians of Gaza — will need to be worked out. But how do you compensate a people whose society you've cannibalized?



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