



BOOKLET
SERIES

CONFRONTING ANTI-ISRAEL BIAS

INTERNATIONAL LAW OF ARMED CONFLICT AND GAZA

Questions and Answers




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Introduction



This Q&A summarises the international law of armed conflict on key issues relevant to the recent military action in the Gaza Strip and its potential continuation, together with our views on whether the Israel Defence Forces and Hamas have complied.

We have tried to describe the legal requirements in a way that can be understood by non-lawyers. It is a simplified explanation which does not include all details; extensive further information is available on the *ICRC Database of Customary International Humanitarian Law*.¹

The Q&A covers rules on how armed conflict is conducted (*jus in bello*) rather than whether the parties are entitled to engage in armed conflict (*jus ad bellum*). However, where relevant, we regard Israel's aim of destroying Hamas as a military organisation and government as a legitimate aim.

Breaches of the requirements are not necessarily war crimes. To amount to war crimes, breaches must be serious and committed with criminal intent; all elements of the crime in question must be present; and all these aspects must be proven beyond reasonable doubt.

This Q&A was last updated on 20 October 2024.

Disclaimer

This booklet answers common questions about international law and the Hamas-Israel war. However, it does not address much more pressing moral and humanitarian concerns, which are covered in *other educational materials*.²

Every single civilian death in Israel and Gaza is a tragedy, and no legal argument can change that. The purpose of this booklet is not to minimise or justify anyone's suffering. Nor is it to suggest that because a military action is legal, it is automatically moral and wise as well.

Our goal is to counter harmful misinformation, by addressing very specific legal claims which are often made in debates about this war.



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Sections

Civilian casualties and damage to civilian buildings	1
Proportionality	7
Precautions to protect civilians	13
Hospitals	23
Siege and humanitarian supplies	27
Occupation	33
Genocide	35



A.

**CIVILIAN
CASUALTIES
AND DAMAGE
TO CIVILIAN
BUILDINGS**

1. Are armed forces permitted to attack civilians under international law?

Armed forces must distinguish between civilians and combatants. Attacks targeting civilians are prohibited.

However, attacks targeting enemy combatants are permitted even if civilian casualties or damage to civilian objects are expected, provided:

- ▶ The attacks are not indiscriminate (see question 5)
- ▶ The expected civilian casualties and damage to civilian objects are not disproportionate to the anticipated military advantage (see section B)
- ▶ All feasible precautions are taken to avoid and minimise civilian casualties and damage to civilian objects (see section C)



Not indiscriminate



Proportionate



Precautions taken

2. Are armed forces permitted to attack civilian buildings and other civilian objects?

Armed forces must distinguish between civilian objects and military objectives. Attacks targeting civilian objects are prohibited **unless they have become military objectives.**

An object is a military objective if:



It makes an effective contribution to military action by its nature, location, purpose or use

and



Its partial or total destruction, capture or neutralisation offers a definite military advantage.

Attacks targeting **military objectives** are permitted subject to the conditions mentioned in answer 1.

FOR EXAMPLE

An ambulance may become a military objective if it is used to transport able-bodied combatants.

3. Does Israel target civilians or civilian objects?

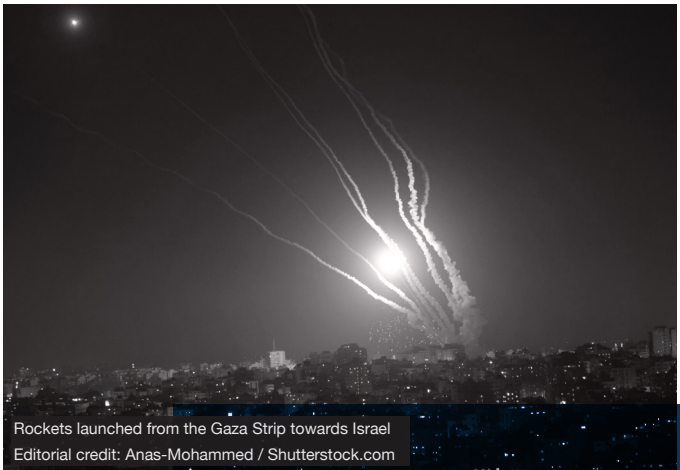
No. Israel targets combatants and military objectives. This is lawful even though civilian casualties and damage to civilian objects results, subject to the conditions mentioned in answer 1.



4. Do Hamas and Palestinian Islamic Jihad target civilians or civilian objects?

Yes. Attacks by Hamas and other terrorists inside Israel from 7-9 October **targeted civilians** and civilian buildings.

In addition their rockets are directed at Israeli civilian communities.



Rockets launched from the Gaza Strip towards Israel
Editorial credit: Anas-Mohammed / Shutterstock.com

5. When is an attack “indiscriminate”?

An attack is indiscriminate if:

It is not directed at a specific military objective

or

It uses means that cannot be directed at a specific military objective or whose effects cannot be limited in accordance with international law, and consequently is of a nature to strike military objectives and civilians or civilian objects without distinction.



**Rockets fired
by Hamas and
Palestinian
Islamic
Jihad are
indiscriminate.**

B.

PROPORTIONALITY

6. When is an attack “disproportionate”?

An attack is disproportionate if it may be expected to cause incidental civilian casualties and/or damage to civilian objects which would be **excessive in relation to the concrete and direct military advantage anticipated.**

7. How is it assessed whether civilian casualties or damage to civilian objects are disproportionate?

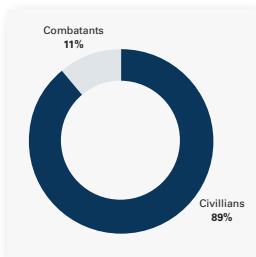
This is assessed by reference to the **judgment of a reasonable military commander** in the circumstances at the time with the information then known to the commander of the attack.



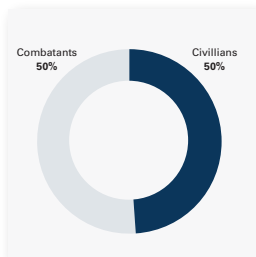
8. Is it disproportionate if there are more casualties on one side than the other?

No. This is not what proportionality means. Indeed it is recognised that a substantial number of civilian casualties are likely to be inevitable where enemy armed forces are embedded among a civilian population. It has been *reported*³ that civilians accounted for 89% of the casualties in armed conflicts in densely populated areas worldwide in 2021. By contrast *analyses*⁴ of previous Israeli operations in the Gaza Strip have indicated that 50% or more of the casualties were terrorists.

The IDF *estimated*⁵ it had killed 17,000 terrorists in the current operation in Gaza by late September 2024 - **around 40% of the total number** of Palestinians killed (about 41,500) according to the Hamas controlled *health ministry*.⁶



Casualties in armed conflicts in densely populated areas worldwide in 2021



Casualties in previous Israeli operations in the Gaza Strip

9. Is it disproportionate if the number of casualties is much greater than expected?

No. The assessment is based on the information known to the commander of the attack at the time.



10. Have Israeli attacks on targets in the Gaza Strip since 7 October been disproportionate?

It is impossible to assess this without having the information known to the IDF commanders at the time. However, **the IDF has processes for assessing both the expected military advantage and the risk of civilian casualties** and damage to civilian objects for each strike, including **review by lawyers who are not part of the command structure**. The anticipated military advantage of each strike would be assessed in the context of Israel's legitimate overall aim to destroy Hamas as a military organisation and government of the Gaza Strip **so that the massacre and other crimes of 7-9 October will not be repeated**.



For further discussion see *UKLFI Briefing Note on Proportionality*.⁷

**Each military strike
is assessed in the
context of Israel's
legitimate overall aim
to destroy Hamas.**



C.

**PRECAUTIONS
TO PROTECT
CIVILIANS**

11. Is a party to an armed conflict obliged to take precautions to protect its own civilians and civilian objects against the effects of attacks by another party?

Yes. Each party to an armed conflict has an obligation to take all feasible precautions to protect the civilian population and civilian objects under its control against the effects of attacks by another party. So far as feasible, it must avoid locating military objectives within or near densely populated areas and remove (evacuate) civilian persons and objects from the vicinity of military objectives.

The use of human shields is prohibited.



Residents of the Northern Israel being evacuated, due to the threat from Lebanon.
October 22, 2023. Photo by Ayal Margolin/Flash90

12. Has Hamas violated its obligation to take precautions to protect civilians and civilian objects under its control?

Yes, Hamas has violated this obligation by:

- ▶ Conducting military operations and storing weapons and other **military equipment in, around and underneath civilian buildings**
- ▶ **Failing to remove (evacuate) civilians** from the vicinity of military objectives
- ▶ **Obstructing civilians** who wish to leave these areas
- ▶ **Reserving underground shelters for military use** instead of for the protection of civilians.

By these violations **Hamas seeks either to deter strikes** by the IDF or to gain propaganda victories if the IDF is not deterred, furthering its **strategic objective of getting the international community to force a ceasefire on Israel before Hamas is destroyed.**

13. Has Israel violated its obligation to take precautions to protect civilians and civilian objects under its control?

No. Israel has gone to great lengths to protect civilians and civilian objects under its control. These measures include security rooms and shelters, warnings systems, the “Iron Dome”, and **large-scale evacuations of population** from near the Gaza Strip and areas near Syria and Lebanon.



The Iron Dome defence system.

The Photo credit: Hamara / Shutterstock.com

14. What precautions must be taken when carrying out an attack?

All feasible precautions must be taken to avoid and minimise civilian casualties and damage to civilian objects. Each party must:



Do everything feasible to **verify that targets are military objectives**



Take all feasible **precautions in the choice of means and methods of warfare** to avoid and minimise civilian casualties and damage to civilian objects



Do everything feasible to assess whether the attack may be expected to cause civilian casualties and/or damage to civilian objects that would **be excessive in relation to the anticipated military advantage**



Cancel or **suspend an attack if it becomes apparent that the target is not a military objective** or that the attack may be expected to cause civilian casualties and/or damage to civilian objects that would be excessive in relation to the anticipated military advantage



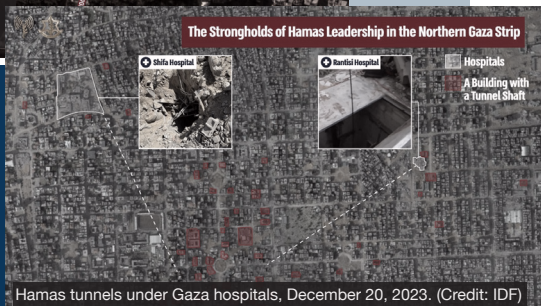
Give effective **advance warning of attacks** which may affect the civilian population **unless circumstances do not permit this**



Select military objectives to cause the **least danger to civilian lives** and objects **where there is a choice** between several military objectives for obtaining a similar military advantage.

15. Has Israel taken the precautions required by international law in its attacks on targets in the Gaza Strip since 7 October?

It is impossible to assess this without having full information about the targets, the information known to the IDF commanders at the time, the information available to them, alternative means and methods of warfare, alternative targets, etc.



However, **the IDF has processes for assessing before and during missions whether targets are military objectives**, the anticipated military advantages, the expected civilian casualties and damage; and for selecting targets, means and methods to achieve military objectives while minimising civilian casualties and damage; and for aborting attacks in the light of further information obtained during the mission. Proposed strikes are reviewed by lawyers who are not part of the command structure.

The IDF has taken extensive precautions to minimise civilian casualties despite the difficulty of reaching an enemy operating in, around and underneath civilian buildings.

These precautions have included advising civilians to evacuate military targets and areas of likely military action before attacks by phone calls, text messages and leaflets, and by providing evacuation routes and pauses in its military action to enable civilians to escape.

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*.⁸

16. Is it legitimate to ask civilians in an enemy territory to evacuate areas of likely military action?

Yes, as long as the intended military action will target enemy combatants and/or military objectives. The forces on both sides have an obligation to take all feasible precautions to avoid and minimise civilian casualties resulting from attacks on military targets.

17. Has Hamas taken the precautions required by international law in its attacks on Israel since 7 October?

No. Hamas has deliberately attacked civilians and has sought to maximise, not minimise civilian casualties and damage.

**Hamas seeks to
maximise civilian
casualties and
damage.**



D.

HOSPITALS

18. Is it ever permitted to attack hospitals and other medical facilities?

Hospitals and other medical units exclusively assigned to medical purposes must be protected in all circumstances.

However, they lose their protection if they are being used outside their humanitarian function to commit acts harmful to the enemy.

These include using a hospital to shelter able-bodied combatants, or to store arms or munitions, or as a shield for military action.

Where a hospital is used to commit acts harmful to another party, that party must give a warning with a reasonable time limit and delay its attack until this period has expired. The attacking party must also still comply with the principles of distinction, proportionality and precautions described in sections A-C above.

19. Was the Al-Shifa Hospital used to commit acts harmful to Israel?

Yes. *Evidence obtained in the current war⁹ has confirmed earlier information that Hamas has been using the Al-Shifa Hospital for **military purposes**,¹⁰ including **concealing able-bodied hostages**,¹¹ **shielding their captors and other military personnel**,¹² **storing military equipment**,¹³ and as a **command and control centre with an extensive tunnel network**.¹⁴*

EVIDENCE HAS ALSO BEEN FOUND

of military use of other hospitals in the Gaza Strip.¹⁵



Hamas weapons found inside Gaza City's Shifa Hospital, November 15, 2023. (Credit: IDF)

20. Did the IDF comply with its international law obligations when it entered the Al-Shifa hospital in November 2023?

According to the IDF, before entering the hospital buildings on 14/15 November 2023 it gave 12 hours' notice to the authorities in Gaza that any military operation in the hospital must cease. IDF soldiers entered the building accompanied by Israeli doctors, medical supplies and baby food.



It does not appear that any weapons were fired or that there was any destruction of hospital facilities as a result of the entry on the occasion. **Premature babies were successfully evacuated in incubators.**

However, the hospital subsequently sustained substantial damage in March 2024 when Hamas fighters who had regrouped in the hospital *resisted Israel forces*.¹⁷

For further discussion and references, see *UKLFI Briefing Note on Hospitals*.¹⁶

E.

**SIEGE AND
HUMANITARIAN
SUPPLIES**

21. Is it lawful to impose a siege on an enemy territory?

Yes. Siege is a permissible means of warfare **unless the intention is to starve the civilian population.** Siege warfare can be more humane than other forms of warfare, such as bombardment, and can shorten a conflict.

22. Does a State have an obligation to supply food, water, fuel, electricity, and medical supplies to a territory under enemy control?

No. A State engaged in armed conflict has no legal obligation to supply anything to a territory under its enemy's control.

On the contrary, there is an obligation on all States not to provide economic resources or any form of support directly or indirectly to terrorists.



23. Must a State permit third parties to provide supplies that are essential to the survival of the civilian population in enemy territory?

Yes, a State must facilitate the supply by third parties of food, medical supplies and other supplies essential to the survival of the civilian population, provided there are no serious reasons for fearing that these supplies will be diverted to or used by the enemy forces or that the enemy will obtain a military advantage because these supplies replace other supplies that will be diverted to the enemy forces.

24. If there are serious reasons for fearing that essential supplies will be diverted to enemy forces, does international law allow a State to prevent them being supplied, to territory under enemy control?

Yes, it is lawful for a State to prevent essential supplies to territory under enemy control where there are serious reasons for fearing that they will be diverted to enemy forces. **In this situation, legal responsibility lies with the enemy forces for diverting humanitarian supplies or failing to ensure that they will not be diverted.**

25. Has Israel complied with its legal obligations regarding humanitarian supplies during its siege of the Gaza Strip?

Israel terminated its supply of electricity to the Gaza Strip, as it was entitled to do. Israel would have been entitled to do so even if the electricity were only used for civilian purposes. In fact electricity is used by Hamas to ventilate its military tunnels and to launch its rockets at Israeli civilians, so Israel was doubly entitled to terminate supply.

Furthermore, nine out of the ten power supply lines from Israel into the Gaza Strip were destroyed in the attacks by Hamas and other terrorist groups on 7 October.

However, electricity generated in the Gaza Strip from fuel and solar power remained available for essential and non-essential purposes.



Israel initially terminated its supply of water to the Gaza Strip but resumed supply of water by 29 October 2023 through two of the three pipelines that were either not broken or repaired following the Hamas attacks. Water supply through the third pipeline was resumed by 2 May 2024 following its repair.

Prior to 7 October, Israel was supplying less than 10% of the water used in the Gaza Strip, so the impact of the temporary cessation was not significant. Israel has also permitted supplies of water into Gaza via the Rafah and Kerem Shalom crossings.

After the Hamas attack, Israel closed the Kerem Shalom crossing into the Gaza Strip but allowed unlimited imports of food, water, shelter and medical supplies from Egypt via the Rafah crossing following Israeli inspection.

The Kerem Shalom terminal was reopened for humanitarian supplies on 17 December, 2023 and further crossing points for humanitarian supplies were opened near Erez in May 2024.

The Israeli authorities have monitored the needs of the civilian population in the Gaza Strip and have permitted more than sufficient food supplies to avoid starvation. However, there have been problems

distributing them in the Gaza Strip, including seizure by Hamas and other armed groups.

Israel was entitled to prevent the supply of fuel altogether, since it had serious reasons for fearing that this would be diverted to enemy forces. Nevertheless, Israel has permitted supplies of fuel sufficient to meet humanitarian needs and for essential services.

For further discussion and references see *UKLFI Briefing Note on Siege, Humanitarian Supplies and Evacuations*.¹⁸





OCCUPATION

26. Is the Gaza Strip occupied by Israel?

Territory is considered occupied under international law when it is actually placed under the authority of a hostile army. **The occupation extends only to the territory where the authority of the hostile army has been established and can in fact be exercised.**

The European Court of Human Rights held that occupation requires the physical presence of foreign troops and is inconceivable without “boots on the ground”. However, the International Court (ICJ) said in a recent, non-binding opinion that an occupying power may remain bound by the law of occupation after withdrawing its physical presence, to the extent that it continues to exercise authority in place of the local government.

Israel evacuated its military and civilian presence from the Gaza Strip in 2005. Following this, Israel controlled its side of its border with the Gaza Strip as well as access to the Strip by sea and air, but did not control either side of the Strip’s border with Egypt, nor civilian activities on the ground in the Gaza Strip. During the current war, Israel has generally continued to avoid exercising authority over civilian activities in the Gaza Strip. The border with Egypt remained under Palestinian authority on the Gaza side until 7 May 2024, when the IDF took control. The Egyptian side remains under Egyptian control.

For further discussion and references, see *UKLFI Briefing Note “Is the Gaza Strip Occupied by Israel”*.¹⁹


G.

GENOCIDE

27. What is genocide?

Genocide is defined in international law as committing various acts with intent to destroy a national, ethnic, racial or religious group as such, in whole or in part. 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



Killing a large number of people **without intent** to destroy a national, ethnic, racial or religious group in whole or in part **is not genocide**.

28. Is Hamas guilty of genocide?

“

The leaders of the Occupation [i.e. Israel] should know, October 7th was just a rehearsal.

- Yahya Sinwar, Hamas's leader in Gaza²⁰

“

[Hamas] will repeat the massacres of 7-9 October again and again until Israel is annihilated.

- Ghazi Hamad, Hamas's Deputy Foreign Minister²¹

“

We must attack every Jew on the planet – slaughter and kill..

- Fathi Hammad, Hamas's Interior Minister²²

A copy of Hitler's *Mein Kampf* translated into Arabic, with sections calling for the slaughter of Jews marked up, was recently found ²³ in a room in the northern Gaza Strip used as a base by members of Hamas.

A copy of Adolf Hitler's *Mein Kampf* sits for sale in Ramallah, West Bank

Photo by Micah Bond/FLASH90



Together with the deliberate targeting of all civilians within reach in the massacres led by Hamas on 7-9 October, **evidence such as this could support a case of genocide against Hamas and some of its personnel.**

29. Is Israel guilty of genocide?

There is no evidential basis for asserting that the IDF has conducted operations with intent to destroy a national, ethnic, racial or religious group in whole or in part, and the facts indicate the contrary.

The Israeli government has repeatedly stated that its objective is to destroy Hamas. Hamas is not a national, ethnic, racial or religious group. **No Israeli leader with authority over the conduct of the military operation has indicated an intention to destroy the Palestinian people.** Claims to the contrary are based on misinterpretations of statements *taken out of context*.²⁴

Judge Donoghue, then President of the International Court (ICJ), has confirmed that it did not find there was a plausible case of genocide by Israel, as suggested by some incorrect reports.²⁵

The IDF evidently has power to kill most of the



population of the Gaza Strip but has not done so. Although serious and tragic, the number of Palestinian civilians killed so far, including those killed by Palestinian fire, is about 1% of the population of the Gaza Strip.

Israel has repeatedly urged and helped Palestinians to move to safer areas. Israel has also taken extraordinary care to provide warnings to evacuate particular targets. ²⁶

Israel has facilitated the supply of large quantities of humanitarian aid enabling starvation to be avoided. Reports of famine in the north of the Gaza Strip in March 2024 overlooked major sources of food and were found implausible in an official review *published in June 2024.*²⁷

For further analysis of a claim that Israel is guilty of genocide, see *UKLFI Briefing Note “Is Israel Guilty of Genocide?”*²⁸



Photo by Nati Shohat / Flash90

References

1. <https://ihl-databases.icrc.org/en/customary-ihl>
2. <https://www.standwithus.com/situationroom>
3. <https://undocs.org/Home/Mobile?FinalSymbol=S%2F2022%2F381>
4. <https://www.dropbox.com/scl/fi/cpp4f6tgd1eb70v7j3o4k/Casualties-in-Israeli-military-operations-in-the-Gaza-Strip.pdf>
5. <https://besacenter.org/the-gaza-terror-offensive-october-7-8-2023/> Report for 6-21 September 2024
6. However these figures should be treated with caution: see <https://www.uklfi.com/wp-content/uploads/2024/08/Palestinian-Casualty-Figures-Briefing-Note-v2.pdf>
7. <https://uklfi.charity.com/a-briefing-note-on-proportionality-in-warfare/>
8. <https://www.france24.com/en/middle-east/20240311-unexploded-bombs-long-term-threat-gaza-strip-israel-humanity-inclusion>
9. <https://www.ynetnews.com/article/bkrxjhcf6>
10. <https://www.dailymail.co.uk/news/article-12770641/gaza-al-shifa-hospital-british-doctor-claim-hamas-warning.html>
11. <https://videoidf.azureedge.net/a72d538a-f733-45bc-a045-e6b432578160>
12. <https://idfanc.activetrail.biz/ANC191120236486845465465>
13. <https://idfanc.activetrail.biz/ANC19112023468645854>
14. <https://twitter.com/idf/status/1727409278636478519>
15. <https://www.timesofisrael.com/idf-hamas-operated-command-center-likely-held-hostages-under-gaza-kids-hospital/>

<https://www.timesofisrael.com/gaza-hospital-director-admits-hamas-used-medical-complex-as-operational-hub/>

16. <https://www.bbc.co.uk/news/world-middle-east-68705765>

17. <https://uklficharity.com/a-briefing-note-on-hospitals/>

18. <https://uklficharity.com/a-briefing-note-on-siege-humanitarian-supplies-and-evacuations/>

19. <https://uklficharity.com/a-briefing-note-on-occupation/>

20. https://twitter.com/gaza_report/status/1730241713472414075

21. <https://www.dailymail.co.uk/news/article-12697293/Hamasleader-dismisses-Gaza-civilian-deaths-necessary-price-bloodboasts-terror-group-demonstrated-Israel-beatable-changing-Middle-East.html>

22. <https://palwatch.org/page/34768>

23. https://www.timesofisrael.com/liveblog_entry/arabic-annotated-copy-of-mein-kampf-found-among-possessions-of-terrorist-in-gaza-home/

24. <https://unherd.com/2024/03/the-flaws-in-the-genocide-case-against-israel/>
<https://www.theatlantic.com/international/archive/2024/01/israel-south-africa-genocide-case-fake-quotes/677198/>
<https://www.theatlantic.com/international/archive/2024/02/claudine-gay-israel-icj-context/677341/>

25. <https://x.com/UKLFI/status/1837576991072997580>

26. <https://www.bbc.co.uk/news/world-middle-east-67327079>

27. <https://www.uklfi.com/wp-content/uploads/2024/08/Review-of-Gaza-Famine-Reports-8.8.24.pdf>

28. <https://uklficharity.com/is-israel-guilty-of-genocide-a-discussion-of-south-africas-claims/>

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