

# A Tribunal for Israel's Crimes in Gaza and Palestine

When the siege on Gaza is finally broken and the first wave of journalists, UN investigators, and forensic teams are allowed to enter, the world will confront a scale of destruction and human loss that is unprecedented in modern warfare. Even now, with only limited access and contested figures, the outline of devastation is staggering. But the true reckoning will not come until Gaza is opened.

## An Unmatched Concentration of Firepower

Across roughly 365 km<sup>2</sup>—barely the size of Detroit and about a third of Hiroshima—Gaza has endured one of the most intense bombardments per square kilometer in recorded history. Independent analyses suggest that Israel has dropped more than **100,000 tons of explosives** since October 2023. To put this in context: Hiroshima, destroyed by a single atomic bomb, absorbed the equivalent of **15,000 tons of TNT**. Gaza has thus been subjected to the destructive power of **six Hiroshimas**, compressed onto a strip already among the most densely populated on earth.

World War II analogies underscore the extremity: Dresden (3,900 tons), Hamburg (9,000 tons), and the Blitz over London (18,000 tons)—together still fall short of what Gaza has suffered. Unlike WWII, however, where industrial and military targets were significant, Gaza's bombardment has overwhelmingly leveled **residential infrastructure**. The UN now estimates that nearly **80 percent of all structures are damaged or destroyed**, including hospitals, schools, and water systems. No modern urban environment has been unmade so completely.

## Why Counting the Dead Under Siege Understates Reality

Official death tolls from Gaza's Ministry of Health—now exceeding **62,000**—reflect only those bodies retrieved and registered, often through collapsing hospitals. They exclude the uncounted: those still trapped beneath rubble, those who died in inaccessible zones, and those starved or untreated for illness.

Independent scientific studies point to a higher reality. *The Lancet* (2025) used capture-recapture models to show that deaths were undercounted by about **41 percent** as of mid-2024. *Nature's* Gaza Mortality Survey estimated more than **75,000 violent deaths** by January 2025, plus **8,500 non-violent deaths** from starvation and lack of care. Together, these suggest a true toll already approaching **80,000–90,000 lives**.

Starvation deaths are particularly galling: as of late August 2025, UN-backed famine monitors confirmed famine in northern Gaza, with at least **300 deaths from hunger**, including

**117 children.** These numbers, like the bomb tonnage, must be understood as minimums. The full reckoning will only emerge once systematic forensic and epidemiological investigations are possible.

## What Awaits Investigators

When the borders finally open, the abstract will become tangible. Journalists will document not only ruins but also the daily struggle of survivors. UN missions will begin mapping mass graves, destroyed neighborhoods, and critical infrastructure. Forensic teams—working site by site—will exhume bodies, determine causes of death, and identify individuals through DNA sampling, dental records, and isotope testing. Epidemiologists will compile mortality surveys to trace indirect deaths from famine, sepsis, untreated wounds, and disease outbreaks.

The process will be meticulous. Every bomb crater will be logged, with fragments catalogued and matched to known weapons systems. Every hospital ruin will be assessed against strike records and GPS coordinates. Every exhumed grave will be photographed, catalogued, and tied to testimony. As in Srebrenica or Rwanda, the result will be mountains of evidence—visual, forensic, testimonial—that together form an irrefutable record.

Given the **scale of devastation**—tens of thousands of sites, more than 100,000 destroyed structures—this will not be the work of months but of **years**. It will culminate in a comprehensive report that both quantifies loss and attributes responsibility.

## Toward a Palestine Tribunal

The reckoning may not stop at Gaza. In July 2024, the **International Court of Justice** advised that Israel's settlement enterprise across the occupied Palestinian territories is **illegal under international law** and entails obligations on States and the UN system to act. That opinion, combined with the confirmed famine and the devastation of Gaza, provides a strong legal foundation for a broader accountability process.

A **Palestine Tribunal** could be established under the auspices of the **UN General Assembly**, mandated to examine crimes from **1948 onward**, with discretionary authority to consider **pre-1948 Mandate-era cases** where a clear nexus exists. This tribunal would not only prosecute individuals but also create a definitive historical record of mass displacement, massacres, settlement expansion, systematic military occupation, and extraterritorial operations.

## Establishment and Integration

### UNGA Resolution

The **General Assembly** could pass a resolution under its **Uniting for Peace** procedure, establishing the Tribunal and requesting the UN Secretary-General to conclude an agreement with the **State of Palestine**. Precedents exist: the **Extraordinary Chambers in**

**Cambodia** and the **IIIM for Syria** were established through GA action when Security Council politics blocked accountability.

## Investigative Arm

The resolution would immediately establish an **independent investigative mechanism**, tasked with preserving evidence and preparing case files - preventing delay in justice while the Tribunal is stood up.

## Integration with ICJ and ICC

- **ICJ:** The **genocide case brought by South Africa** should remain with the ICJ, which adjudicates **state responsibility**. If the Court awards reparations, the GA could authorize a **portion** of those reparations to flow into a **Tribunal-administered Victim Fund**, alongside voluntary contributions.
- **ICC:** The Tribunal would coordinate with the **International Criminal Court**, which is already pursuing cases against **Netanyahu and Gallant**. The ICC would retain focus on ongoing leadership cases, while the Tribunal would address **historic and structural crimes** (Nakba, settlements, Sabra and Shatila, repeated Gaza wars).

## Archival Function

The Tribunal would maintain a **central evidence repository**, harmonized with ICC and IIIM standards, ensuring that the **record of crimes is preserved** for future generations and accessible to national courts under universal jurisdiction.

## Conclusion

Until Gaza is opened, the world lives in the limbo between knowledge and proof. But when access is finally granted, the revelations may be so overwhelming that they force a reckoning not just with the destruction of Gaza, but with the century-long history of impunity in Palestine.

Just as Nuremberg did not confine itself to the last battles of World War II, but defined the entire regime's criminality, so too might a **Palestine Tribunal** emerge: empowered to hear cases from **the Nakba of 1948 to Gaza of 2025 and beyond**.

Such a tribunal would not only deliver accountability but also define historical truth: that what befell the Palestinian people across generations was not an accident of history, but a continuum of crimes in violation of the law of nations.

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# Appendix 1: Draft Statute of the Palestine Tribunal (with Explanatory Notes)

## Article 1 - Establishment

**Text:** The Palestine Tribunal (“the Tribunal”) is established as an independent judicial body to prosecute persons responsible for serious violations of international humanitarian and human rights law committed in Palestine and related extraterritorial locations **from 15 May 1948 onward**, with **discretionary authority**, upon judicial authorization, to investigate **pre-1948** crimes within the British Mandate where a **clear nexus** to the conflict and sufficient admissible evidence exist. **Note:** 1948 anchors the Nakba and the onset of occupation-era crimes; discretionary pre-1948 jurisdiction allows investigation of Mandate-era assassinations and massacres.

## **Article 2 - Subject-Matter Jurisdiction**

**Text:** (a) War crimes; (b) Crimes against humanity; (c) Genocide; (d) Terrorism, as defined in relevant treaties and Palestinian law where consistent with international standards. **Note:** Covers both classic international crimes and terrorism against civilians/diplomatic facilities, ensuring early and later crimes fall under jurisdiction.

## **Article 3 - Temporal & Territorial Jurisdiction**

**Text:** 15 May 1948 to present, with discretionary pre-1948 authority. Territorial scope: Gaza, West Bank, East Jerusalem, and extraterritorial acts (e.g., Beirut, Cairo, Rome, Tehran, Damascus). **Note:** Captures both the occupation and extraterritorial operations.

## **Article 4 - Personal Jurisdiction**

**Text:** Focus on persons bearing greatest responsibility: political leaders, military commanders, superiors. **Note:** Ensures impartiality; applies to all sides.

## **Article 5 - Composition**

**Text:** Hybrid model: Trial and Appeals Chambers, international and Palestinian judges, independent Prosecutor, Registry. **Note:** Follows precedents like Cambodia and Sierra Leone.

## **Article 6 - Applicable Law**

**Text:** Geneva Conventions, Rome Statute, ICJ advisory opinions, customary IHL, Palestinian law where consistent. **Note:** Integrates binding international law with local legitimacy.

## **Article 7 - Rights of the Accused**

**Text:** Fair-trial guarantees, presumption of innocence, legal representation, right to appeal. **Note:** Prevents accusations of “victors’ justice.”

## **Article 8 - Victims & Reparations**

**Text:** Victims may participate and seek reparations. Establishes a Victim Fund to receive ICJ-awarded reparations, voluntary contributions, and assets of convicted persons. **Note:** Directly connects state-level ICJ judgments to individual and community reparations.

## Article 9 - Cooperation & Enforcement

**Text:** States shall cooperate with arrests, transfers, and evidence provision. Sentences served in UN-designated States. **Note:** While GA resolutions lack Chapter VII enforcement, broad legitimacy and agreements will generate compliance.

## Article 10 - Duration & Reporting

**Text:** Tribunal established with a renewable 15-year mandate. Annual reports to UNGA; archival records under UN custody. **Note:** Ensures accountability and historical preservation.

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# Appendix 2: Preliminary Case Files (Illustrative)

### Mandate Era

- 1924 - Assassination of Jacob Israël de Haan (Jerusalem)
- 1944 - Assassination of Lord Moyne (Cairo)
- 1946 - King David Hotel bombing (Jerusalem)
- 1948 - Deir Yassin massacre (Jerusalem)
- 1948 - Assassination of UN Mediator Folke Bernadotte

### Early Statehood

- 1953 - Qibya massacre
- 1956 - Kafr Qasim massacre
- 1968 - Beirut Airport raid
- 1973 - Shoot-down of Libyan Arab Airlines Flight 114
- 1982 - Sabra & Shatila massacre (complicity)

### Occupation & Gaza Wars

- 2001 - Destruction of Gaza International Airport
- 2008–09 - “Cast Lead” operation (1,166–1,417 Palestinians killed, majority civilians)
- 2014 - “Protective Edge” (2,125+ Palestinians killed, 1,600+ civilians)
- 2023–25 - Gaza War: bombardment, famine, destruction of 78% of structures, 62,122+ deaths (MoH/UN baseline)

### Extraterritorial

- 2024 - Strike on Iranian diplomatic compound (Damascus)
- 2024 - Assassination of Ismail Haniyeh (Tehran)
- 2025 - Attack on Sanaa International Airport

### Contemporary Leadership Dossiers

- **Benjamin Netanyahu (Prime Minister)** - Command responsibility for Gaza war, siege, starvation policy.
- **Yoav Gallant (Defense Minister)** - Direct responsibility for siege and bombardment.
- **Bezalel Smotrich (Finance Minister)** - Settlement expansion, incitement, enabling settler violence.
- **Itamar Ben Gvir (National Security Minister)** - Arming settlers, discriminatory policies, prisoner abuse.

## References

- UNOSAT / OCHA Damage Assessment, Aug. 2025 (~78% of structures affected).
- OCHA Humanitarian Situation Update #315, Aug. 2025 (62,122 deaths).
- *The Lancet* (Jan. 2025): 64,260 estimated traumatic deaths; ~41% undercount.
- *Nature* (June 2025): Gaza Mortality Survey, 75,200 violent + 8,540 non-violent deaths.
- IPC Famine Confirmation, Aug. 2025.
- ICJ Advisory Opinion, 19 July 2024: illegality of settlements in oPt.
- ICC Prosecutor applications for arrest warrants (May 2024) and warrants (Nov 2024) against Netanyahu, Gallant, and Hamas leaders.
- UNGA Res. 71/248 (2016): IIIM for Syria.
- UNGA Res. 57/228B (2003): ECCC (Cambodia).