

Ref: TA/IC-FCDO221123

**Secretary of State for Foreign, Commonwealth and Development Affairs
The Rt Hon David Cameron**

Sent by email only to: fcdo.correspondence@fcdo.gov.uk

URGENT

22 November 2023

Dear Foreign Secretary,

Re: British citizens fighting in the IDF - complicity in war crimes, crimes against humanity and genocide

I refer to our letter to the former Foreign Secretary James Cleverly dated 3 November 2023, seeking clarification on the UK's position on the legality of British citizens going to fight in Israel and/or the Occupied Palestinian Territory (the "OPT") a copy of which is attached. We have yet to receive a response to the questions raised in that letter.

In light of the catastrophic, and deteriorating situation in Gaza, and with clear evidence of mass atrocity crimes being committed, we ask you as the UK's new Foreign Secretary, to take robust action to prevent British citizens from potentially becoming complicit in the further commission of such crimes.

We bring to your urgent attention the UK's treaty obligations under the Convention on the Prevention and Punishment of the Crime of Genocide of 1948 (the "Genocide Convention"). As a State Party to the Genocide Convention, the UK is required to take steps to prevent and to punish acts of genocide.¹

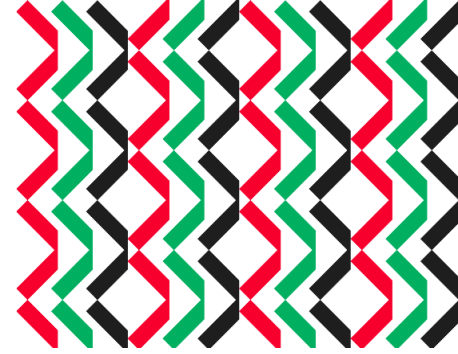
Since at least 18 October, UN experts, civil society organisations, and genocide studies scholars have warned of an imminent risk of genocide against the Palestinian population in Gaza.² There is now a significant and growing body of evidence that Israel either intends to commit, or is in the process of committing the crime of genocide in Gaza. Such evidence includes, *inter alia*:

1. Israel's unprecedented and indiscriminate bombing campaign in Gaza since 7 October 2023, resulting in a colossal civilian death toll. As of 10 November, Israel had killed at least 11,078

¹ Article 1 of the Convention on the Prevention and Punishment of the Crime of Genocide of 1948, available at:

https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf; The UK ratified the Genocide Convention on 30 January 1970: https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-1&chapter=4&clang=en

² For example, on 16 November, a group of 21 UN independent experts urged the international community to fulfil its obligation to prevent genocide, stating that Israel's actions in Gaza since 7 October "point to a genocide in the making". Gaza: UN experts call on international community to prevent genocide against the Palestinian people, 16 November 2023, Office of the High Commissioner for Human Rights, available at: <https://www.ohchr.org/en/press-releases/2023/11/gaza-un-experts-call-international-community-prevent-genocide-against>; See also, Center for Constitutional Rights, Emergency Legal Briefing Paper: Israel's Unfolding Crime of Genocide of the Palestinian People & U.S. Failure to Prevent and Complicity in Genocide, 18 October 2023, available at https://ccrjustice.org/sites/default/files/attach/2023/10/Israels-Unfolding-Crime_ww.pdf; OHCHR, Gaza: UN experts decry bombing of hospitals and schools as crimes against humanity, call for prevention of genocide, 19 October 2023, available at: <https://www.ohchr.org/en/press-releases/2023/10/gaza-un-experts-decry-bombing-hospitals-and-schools-crimes-against-humanity>; Al Haq, Genocide Scholars and 100 Palestinian and International Civil Society Organisations Call on Prosecutor Khan to Issue Arrest Warrants, Investigate Israeli Crimes and Intervene to Deter Incitement to Commit Genocide in Gaza, 20 October 2023, available at: <https://www.alhaq.org/advocacy/21946.html>



people in Gaza, including at least 4,506 children and 3,027 women. Another 27,490 Palestinians had reportedly been injured. The actual figures are likely to be far higher; the death toll has not been updated since 10 November due to the collapse of Gaza's health system. Thousands of Palestinians, including many children, remain trapped under the rubble.

2. Israel's deliberate targeting of civilian objects, including homes, schools, hospitals, refugee camps, ambulances, churches and mosques. Israel has destroyed or damaged over 45% of Gaza's residential housing units. It has also bombed and destroyed life-sustaining infrastructure including telecommunications, water and sanitation infrastructure, food factories and bakeries.
3. Israel's "total siege" on Gaza. Since 8 October, Israel has cut off Gaza's electricity and water supplies and prevented access of fuel, food, water and other humanitarian aid necessary for the survival of the population – including medicine and medical supplies.³ This has resulted in a humanitarian catastrophe, the risk of starvation, and the spread of disease.
4. Israel's directive to 1.2 million people in northern Gaza to immediately leave their homes and move south, issued on 13 October. Over 1.5 million people⁴ in Gaza – over half of the population – have now been internally displaced, in what UNRWA Commissioner-General Philippe Lazzarini has called "the largest displacement of Palestinians since 1948".⁵

These actions, along with others too numerous to set out here, may well give rise to a multitude of war crimes including - *inter alia* - wilful killing, wilfully causing great suffering or serious injury to body or health, extensive destructive of property, collective punishment, unlawful deportation or transfer, intentionally directing attacks against a civilian population and civilian objects, and using starvation of civilians as a method of warfare. Moreover, such conduct has been accompanied by statements made by senior Israeli politicians and military commanders that constitute a clear intent to commit genocide, including, *inter alia*:

1. Prime Minister Binyamin Netanyahu's declaration on 29 October 2023: "*You must remember what Amalek has done to you, says our Holy Bible,*" referencing scripture from the bible which states, "Now go and attack Amalek, and utterly destroy all that they have, and do not spare them. But kill both man and woman, infant and nursing child, ox and sheep, camel and donkey."⁶
2. President Isaac Herzog's statement on 13 October 2023: "*It's an entire nation out there that is responsible. It's not true – this rhetoric about civilians not aware, not involved, it's absolutely not true.*"⁷
3. Ariel Kallner, a member of the Israeli parliament for the Likud party, who stated: "*Right now, one goal: Nakba! A Nakba that will overshadow the Nakba of 1948.*"⁸

The International Court of Justice (the "ICJ") has confirmed that State Parties to the Genocide Convention have an obligation to prevent genocide beyond their territorial borders. State parties are required to "employ all means reasonably available to them, so as to prevent genocide so far as

³ Yoav Gallant, Israel's Defence Minister, said "I have ordered a complete siege on the Gaza Strip. There will be no electricity, no food, no fuel, everything is closed," and "We are fighting human animals and we are acting accordingly":

https://www.timesofisrael.com/liveblog_entry/defense-minister-announcescomplete-siege-of-gaza-no-powerfood-or-fuel/

⁴ Hostilities in the Gaza Strip and Israel | Flash Update #41, UN OCHA: <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-41>

⁵ United Nations Geneva, X: <https://x.com/UNGeneva/status/1725469357386420518?s=20>

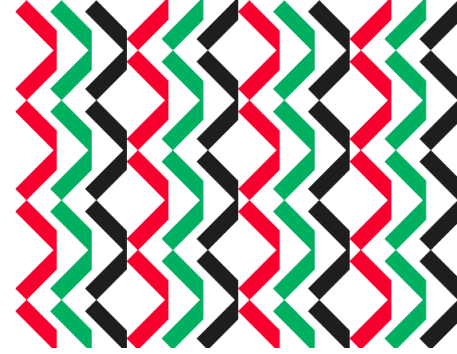
⁶ National Public Radio, Netanyahu's references to violent biblical passages raise alarm among critics, 7 November 2023:

<https://www.npr.org/2023/11/07/1211133201/netanyahus-references-to-violent-biblicalpassages-raise-alarm-among-critics>

⁷ CNN, The Lead with Jake Tapper, Transcripts, 13 October 2023: <https://transcripts.cnn.com/show/cg/date/2023-10-13/segment/02>

⁸ The language being used to describe Palestinians is genocidal, Chris McGreal, The Guardian, 16 October 2023:

<https://www.theguardian.com/commentisfree/2023/oct/16/the-language-being-used-to-describe-palestinians-is-genocidal>



possible”.⁹ The ICJ clarified that “a State’s obligation to prevent, and the corresponding duty to act, arise at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed.”¹⁰

This letter is intended to place the UK government on notice that there is now a serious risk of genocide being committed by Israel in Gaza.

As a State party to the Genocide Convention, the UK is required to prevent the commission of genocide by others using all means reasonably available to it. We are gravely concerned that the UK is failing in its obligation to prevent the commission of the crime of genocide by Israel in Gaza. One way in which it is doing so is by permitting British citizens, including dual nationals, to travel to the region to fight for the IDF.

We are deeply concerned that British citizens who are currently fighting as part of the IDF in the OPT may be participating in acts of genocide under the Genocide Convention and the Rome Statute of the International Criminal Court. As stated in our previous letter, reputable UK newspapers have reported that there may be hundreds, if not thousands, of British citizens currently fighting for the IDF in Gaza.¹¹ The UK has a clear obligation to prevent genocide, and therefore to prevent British citizens from joining and fighting in a foreign army which is engaged in or likely to be engaged in acts of genocide.

We therefore urge the UK government to act in accordance with its obligations under the Genocide Convention and:

1. Take immediate and concrete steps to prevent British citizens, including dual nationals, from going to fight for the IDF in Israel and/or the OPT, whether as reservists or volunteers;
2. Issue warnings that anyone who does so will be investigated and could be prosecuted on their return to the UK;
3. Coordinate with the Metropolitan Police Service (the “MPS”) to monitor British citizens, including dual nationals, who travel to Israel and/or Gaza to fight for the IDF; and
4. Provide specific guidance to the MPS and the Crown Prosecution Service to investigate such individuals and prosecute them if there is evidence that they have participated in acts of genocide and/or other crimes.

We look forward to receiving a response to this letter and our letter of 3 November as soon as possible.

Yours sincerely,

The International Centre of Justice for Palestinians

⁹ International Court of Justice, Case Concerning Application of The Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro), Judgment of 26 February 2007: <https://www.icj-cij.org/files/case-related/91/091-20070226-JUD-01-00-EN.pdf>, at para. 430.

¹⁰ Ibid, at para 431.

¹¹ Meet the Britons defending ‘the only place Jews feel safe’, The Times, 28 October 2023: <https://www.thetimes.co.uk/article/meet-the-britons-defending-the-only-place-jews-feel-safe-7tvpt5d9q>