

When Does It Become Genocide?

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During a visit to Ramallah a year ago while the Israeli bombardment of Gaza was underway, I shared my fears with a close Palestinian friend. “It may sound insane, but I think the Israelis’ real objective is to see them all dead.”

My friend told me not to be silly, the assault was horrific, but it was not mass killing. I said that wasn’t the issue: This was a population already very vulnerable to disease, ill-health, and malnutrition after years of siege, with its infrastructure rotted, its water and food contaminated. Israel’s war would surely push the people over the brink, especially if the siege was maintained — as it has been.

In other words, Israel would not directly kill tens of thousands of Palestinians, but it would create the conditions for tens of thousands to die. Any epidemic could finish the job. My friend fell silent at these words, but still shook his head in disbelief.

Two things have changed since last year: More people have started to apply the term “genocide” to what Israel is doing to Gaza. And not only is Israel being directly accused but also, increasingly, Egypt.

Is it genocide? “The Convention on the Prevention and Punishment of the Crime of Genocide” — a clear, concise document adopted by the United Nations in December 1948 — states that genocide is any of five acts committed “with intent to destroy, in whole or in part, a national, ethnical, racial or religious group.”

Three acts appear to apply to the situation in Gaza: “(a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.”

Legal scholars disagree about how to interpret the Convention’s articles and it has proven difficult, over the years, to define crimes as genocide, let alone to prevent or end them. In line with the Bosnia precedent — the only authoritative legal treatment of genocide to date — it would be necessary to establish deliberate intent for an accusation of genocide against Israel to stand up in court.

Israel’s leadership has not, of course, issued a declaration of intent. However, many leading Israeli officials can be said to have done so. For example:

- Putting the Palestinians of Gaza “on a diet” — Dov Weisglass, chief aide to Ariel Sharon, in 2006.

- Exposing them to “a bigger shoah (holocaust)” — Matan Vilnai, former deputy defense minister, in 2008.
- Issuing religious edicts exhorting soldiers to show no mercy — the Israeli army rabbinate during the actual conflict.

Such declarations echo at least three of the “8 stages of genocide” identified by Genocide Watch president Gregory Stanton in the 1990s after the Rwanda genocide: Classification, dehumanization, and polarization.

Then there is the deliberate destruction or barring of means of sustenance as Israel has done on land and at sea. Already, the Goldstone Report has said that depriving the Gaza Palestinians of their means of sustenance, employment, housing and water, freedom of movement, and access to a court of law, could amount to persecution.

Since the December-January assault, there have been many authoritative reports by human rights and environmental organizations on the impact of the war and the ongoing siege on the people, soil, air, and water, including the increase in cancers, deformed births, and preventable deaths. The death toll in Gaza from swine flu reached nine in mid-December and 13 a week later — an epidemic in waiting.

The eighth stage of genocide Stanton identifies is denial by perpetrators “that they committed any crimes.” Ironically, Stanton headed the International Association of Genocide Scholars during the conflict, which shut down discussion of Israel’s actions despite protests by, among others, genocide scholar and author Adam Jones. Jones and 15 other scholars had posted a declaration stating that Israeli policies were “too alarmingly close” to genocide to ignore and calling for an end to the silence.

Alarmingly close is right. Here is how Raphael Lemkin, the Polish-Jewish legal scholar who pushed for the genocide convention, defined it in 1943:

“genocide does not necessarily mean the immediate destruction of a nation.... It is intended rather to signify a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves. The objectives of such a plan would be the disintegration of the political and social institutions, of culture, language, national feelings, religion, and the economic existence of national groups, and the destruction of the personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups.”

It is hard to conceive of a better description of what is going on in Gaza.

All UN member states have the duty to prevent and stop acts of genocide. What is needed is a country brave enough to take the lead, before it is too late.

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