

COMMISSION NATIONALE
CONSULTATIVE
DES DROITS DE L'HOMME

RÉPUBLIQUE FRANÇAISE

DECLARATION

Declaration :

“Gaza: starvation as a weapon of war is strictly prohibited under international law”.

(D – 2024 – 1)

(Plenary meeting - 28 March 2024 - Adopted unanimously, with four abstentions)

1. On 30 November 2023, France’s National Consultative Commission on Human Rights (CNC DH) recommended issuing a reminder to the parties involved in the conflict between Hamas, the other armed groups and Israel of the basic rules of international humanitarian law¹. Ever since, the situation in the Palestinian enclave has continued to deteriorate. The Secretary-General of the United Nations has spoken of an “epic humanitarian catastrophe”², while a number of United Nations reports and statements refer to serious violations of international humanitarian law, and systematic and flagrant violations of international human rights law³. Civilian populations, some of whom have been forcibly displaced, are faced with a serious risk of epidemics amidst the shortage of drinking water, food, medicines and fuel, as well as a total lack of waste disposal, including human excrement. Civilians are the first victims of the daily bombardments, and now they are also contending with one of the highest levels of food insecurity ever recorded in the world⁴. The High Representative of the European Union for Foreign Affairs and Security Policy⁵ has denounced the situation as using starvation as a “weapon of war”.

2. In this dramatic situation, such humanitarian organisations as the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), Médecins Sans Frontières and Médecins du Monde are being targeted⁶. Military operations waged by the opposing forces are having the effect of restricting, weakening or even preventing the delivery of humanitarian aid.

3. An entire nation is threatened with starvation. Starvation is rejected by humanity and prohibited by international law.

4. International humanitarian law and international criminal law, including the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), Security Council Resolution 2417 (2018) and the Statute of the International Criminal Court, expressly prohibit the use of starvation as a weapon of war against civilians, while specifying that such use constitutes a war crime. This norm, which is a customary rule of international humanitarian law, imposes an obligation on all parties to the conflict to authorise and facilitate the rapid and unhindered delivery of impartial humanitarian aid to civilians in need. In this respect, the CNC DH believes that delivering aid by land should be prioritised in an effort to effectively respond to the needs of the population.

5. A case brought by South Africa before the International Court of Justice (ICJ) has led to a series of provisional measures that must be implemented by Israel. As such, the Court orders Israel to “*take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by Palestinians in the Gaza Strip*”⁷. The United Nations Member States, including France, are responsible for ensuring that the provisional measures issued by the ICJ are properly implemented.

6. The CNC DH solemnly reiterates that international law strictly prohibits the deliberate use of starvation as a weapon of war against civilian populations and which circumstances have placed under the effective control of the occupying power.

7. In such situations, Member States, even if they are not parties to the conflict, have a duty to take all measures to enforce the rule of law in all the territories of the armed conflict⁸. In this respect, it stands as a crucial test for the corpus of international humanitarian law and international human rights law.

8. For all these reasons, the CNCDH submits the following recommendations to the public authorities.

Recommendation 1: The CNCDH recommends that the government should continue solemnly reiterating that the use of starvation as a weapon of war is strictly prohibited under international law.

Recommendation 2: The CNCDH recommends that the government, together with its European and international partners, should step up initiatives to bring an end to all deliberate restrictions on access to food.

Recommendation 3: The CNCDH recommends that the government, together with its European and international partners, should step up initiatives to enforce the obligation to protect health, which implies the free delivery of humanitarian aid, access to drinking water, the elimination of waste from areas where displaced people are constantly living, access to medicines, medical equipment and basic services (fuel, electricity, etc.), and the obligation to facilitate the transfer of injured people to functional hospitals.

Recommendation 4: The CNCDH recommends that the government should step up its efforts to promote freedom of movement (especially by granting visas to humanitarian workers) and protect humanitarian personnel.

Recommendation 5: The CNCDH recommends that the government should continue supporting the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).

Recommendation 6: The CNCDH recommends that the government should broaden and support any initiatives allowing international experts and fact-finding missions to access all the territories involved in the armed conflict, especially Gaza, and gather evidence with a view to potential prosecution for international crimes committed by all the parties to the conflict.

Recommendation 7: The CNCDH recommends that the government should include its diplomatic and political efforts in the implementation of the

orders issued by the International Court of Justice.

Recommendation 8: The CNCDH recommends that the government, together with its European and international partners, should continue its efforts to implement the lasting, immediate ceasefire demanded by the United Nations Security Council, to free all the hostages and repatriate Franco-Palestinian families.

Recommendation 9: The CNCDH recommends that the government should suspend granting export licences for arms and dual-use goods to Israel and take restrictive measures against the authorities responsible for causing starvation.

End notes :

1. Refer to the CNCDH's Declaration: "Reminder of the fundamental rules of applicable international humanitarian law in the case of the conflict involving Hamas, other armed groups and Israel," adopted during the plenary assembly on 30 November 2023: *"the need to protect all people who are not taking part in the hostilities, facilitate the rapid and unhindered passage of humanitarian relief, use best efforts to respect the integrity of civilian objects, and protect humanitarian personnel."*
2. UN News, [World must not look away from humanitarian catastrophe in Gaza](#), UN chief tells Security Council, 29 November 2023.
3. For examples, see UN News, [Gaza has become a "death zone", warns UN health chief](#), 21 February 2024; ; Committee on the Elimination of Racial Discrimination, urgent procedure, Statement 5 (2023) Israel and the State of Palestine, 27 October 2023; UN News, [Israeli-Palestinian conflict: UN experts deplore attacks on civilians and call for a truce](#), 12 October 2023
4. Refer to the report on food security (IPC), Gaza Strip: Acute Food Insecurity November 2023 - February 2024, 21 December 2023: *"Between 8 December and 7 February, the entire population in the Gaza Strip (about 2.2 million people) is classified in IPC Phase 3 or above (Crisis or worse). This is the highest share of people facing high levels of acute food insecurity that the IPC initiative has ever classified for any given area or country."*
5. AFP, [Gaza: Borrell denounces the use of starvation as a "weapon of war"](#), 12 March 2024.
6. For example, see MSF, [MSF convoy attacked in Gaza: all elements point to Israeli army responsibility](#), 18 November 2023; MDM, [Médecins du Monde condemns the destruction of its offices in Gaza City](#), 12 February 2024; ; UN News, [UN honours 101 staff killed in Gaza conflict](#).
7. ICJ, Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel), request for the indication of provisional measures, 26 January 2024, § 80.
8. Refer to Article I of the Convention on the Prevention and Punishment of the Crime of Genocide.

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