

# What are the rules of war - and how do they apply to the Israel-Gaza conflict?

Friday 13 October 2023, by [SIDDIQUE Haroon](#) (Date first published: 12 October 2023).

**International humanitarian law dictates the rules combatants should follow - with a central tenet that 'civilians should not be targeted'**

Amid the horror of the attacks by Hamas on [Israel](#) and the response by the Israeli military in Gaza, there have been calls for both sides to abide by international law and accusations of breaches.

So what is the framework of international laws that is supposed to govern war or armed conflicts?

**'Civilians should not be targeted ...'**

The permitted methods and means of warfare are dictated by international humanitarian law, or *jus in bello*, which includes the 1949 [Geneva conventions](#) and 1977 protocols.

A central tenet of international humanitarian law, which is applicable to all participants, not only state actors, is that civilians should not be targeted. Additionally, it dictates that an attack must not be carried out if it is "expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof" that would be excessive in relation to the anticipated military gains.

There are many other provisions, which also prohibit hostage taking, excessive destruction and appropriation of property and attacks on hospitals. Another provision states that access to humanitarian relief for civilians in need must be allowed.

## Self defence

In international law, *jus ad bellum* also refers to the conditions under which states may resort to war or to the use of armed force.

Self defence, as cited by [Israel](#) in its response, is one of the justifications for war, with article 51 of the UN charter preserving this right "if an armed attack occurs".

However, the exercise of this right of self-defence is still subject to international humanitarian law. In other words, the lawful exercise of self-defence does not allow a state to have recourse to unlimited means, and is subject to *jus in bello* to minimise suffering in armed conflicts.

This will become more of an issue in the coming days as attention turns to [Gaza](#).

On Tuesday, the EU's foreign policy chief, Josep Borrell, said: "Israel has the right to defend [itself] but it has to be done accordingly with international law, humanitarian law.

## International crimes

There is also international criminal law, which falls within the jurisdiction of the [international criminal court](#) and national courts. The ICC has jurisdiction over individuals for war crimes, crimes against humanity and genocide and, to a limited extent, the crime of aggression (waging an illegal war). The ICC describes war crimes as “grave breaches of the Geneva conventions” as well as “other serious violations of the laws and customs applicable in international armed conflict”. This encompasses breaches of international humanitarian law, including some of those provisions detailed above.

Crimes against humanity include murder, extermination and deportation or forcible transfer of population “when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack”.

War crimes and crimes against humanity appear to be the most likely crimes to be investigated and charged in the context of the current conflict.

Both sides have also faced accusations of genocide, although it is a harder crime to prosecute, outlawing “acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group”. Unlike war crimes, crimes against humanity and genocide do not need to be linked to an armed conflict.

Israel is not a member of the ICC but [Palestine joined in 2015](#), and crimes committed on the territory of Palestine (by any national, including non-Palestinians) and by Palestinian nationals (within its territory or outside) may fall within the jurisdiction of the ICC.

In 2021, [the ICC opened an investigation into alleged war crimes](#) in the Palestinian territories committed by both Israelis and Palestinians, including during the 2014 Gaza war. Israel has fiercely resisted the inquiry.

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### P.S.

- The Guardian. Thu 12 Oct 2023 17.27 CEST : <https://www.theguardian.com/law/2023/oct/12/what-are-the-rules-of-war-and-how-do-they-apply-to-the-israel-gaza-conflict>
- Haroon Siddique's articles in The Guardian. : <https://www.theguardian.com/profile/haroonsiddique>

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