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Expulsion with no exit: one year of war in Gaza

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The first year of war in Gaza has caused the forced displacement of 85% of the population. While it is central to the conflict, little analysis has been conducted from this perspective.

The singular nature of this displacement is threefold: the goal of the conflict is expulsion; the purpose of the expulsion is expansion into the territory; and the expulsion is intended to be permanent, with no possibility of return. These three aspects have been a constant in the history of the Palestinian people since the creation of the state of Israel in 1948.

Gaza illustrates the calamitous failure of international law, both in the humanitarian field and regarding asylum. What has gone wrong? How do we explain the unjustifiable?

It has now been a year since the attacks led by Hamas on October 7th, 2023. Since then, the Israeli offensive in the Gaza Strip has caused the forced displacement of nearly 2 million people and over 41,000 deaths. According to an article published recently in *The Lancet*, deaths related to the conflict (due to malnutrition or lack of medical attention, for example) are believed to have reached 186,000 in June 2024. These figures mean that 85% of the population of Gaza have had to flee their homes and that 8% (primarily women and children) are thought to have died during the offensive. Taking into account direct and indirect fatalities, the military campaign in Gaza

has produced a higher daily death rate than any other 21st century armed conflict. Following South Africa's accusation, in January 2024 the International Court of Justice (ICJ) concluded that genocide charges against Israel could not be dismissed.

Multiple mechanisms have contributed to the forced displacement of most of Gaza's population. First, the evacuation orders issued by the Israeli government. The earliest ones came just a few days after the outbreak of the conflict and affected the whole of northern Gaza, triggering the forced displacement of over 1.1 million Palestinians in less than 24 hours. As the invasion advanced, others followed, for example in Khan Younis in December and January, or in Rafah in May 2024. The latter led to the evacuation of another 1 million people, many of them already displaced in the preceding months (some several times). Second, forced displacements have also resulted from bombardments, which have destroyed most homes and civil infrastructure (from hospitals to schools and roads) and pose a threat to life even in zones supposedly declared safe. Lastly, on top of all this is the difficulty of surviving amidst severe restrictions on access to safe drinking water, electricity, food, medical supplies and other basic products. In May, the **United Nations** concluded that the situation in Gaza had "reached unprecedented levels of emergency".

While the forced displacement of the population of Gaza is a key element of the conflict, not just a consequence, there is little analysis that focuses on this issue. Hence the need for this *Nota Internacional CIDOB*, which aims to review the first year of the Gaza offensive through the lens of migration. From an internal perspective, the question arises as to the nature of the forced displacement, which in this case is planned and intended to facilitate the occupation of the territory. From an external standpoint,

when the forced displacement is accompanied by a policy of closed borders, the question is: what role do international law, the United Nations and the various parties involved play?

Organised forced displacement

The term forced displacement **refers to** all situations in which people are obliged to flee their homes or place of habitual residence because of armed conflicts, violence, persecution and human rights violations, natural disasters or human-made catastrophes. It is a broad definition that covers very different conditions depending on whether the action that causes the displacement is carried out by states, whether the persecution is individual or collective, whether it is planned action, or the specific purpose with which it is carried out.

That is why, regarding the Gaza conflict, **Adamson and Greenhill** propose a more precise term: “organised forced migration”. It is intended to describe those situations where migration is used as a geopolitical tool by state elites and other actors. But again, this term covers very

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disparate situations, with population movements that can be voluntary or forced and serve purposes as varied as creating an empire or consolidating a nation-state project, negotiating foreign policy with third countries (in what is understood as **exploitation of migration**), or it may be the result of a migration management policy (deportations, for example).

Precisely because the range of situations is so diverse, we believe it is necessary to define the term further – in two respects in our view. One, rather than organised forced migration, we should be talking about organised forced displacement. The switch from migration to displacement is fundamental as we are talking about the expulsion of people from their places of origin or residence. And two, we must remember that in this case the expulsion of the Palestinian population is the other face of Israeli territorial expansion. The ultimate goal of the occupation is the annexation and permanent settlement of the land. The way the Israeli government sees it, this means reducing the number of Palestinians living there to a minimum. In 2016, Yair Lapid, an Israeli politician regarded as a centrist or even liberal and who was briefly prime minister in 2022, declared in a **newspaper**: “My principle is maximum

Jews on maximum land with maximum security and with minimum Palestinians”. This is no temporary displacement then. The expulsion is intended to be final and from where the Israeli government stands, and contrary to international law, return is not seen as a possibility.

All this leads us to the conclusion that, compared to other situations of forced displacement, the singularity of the case of Gaza is threefold. First, the displacement is not a consequence of the conflict but is rather one of its main objectives, as it forms part of an organised strategy on the part of the state of Israel. Second, the purpose is expulsion from a territory in order to expand into it. In this respect, it is not so different from the case of the Rohingya in Myanmar, where genocide, expulsion and land grabbing went hand in hand. Third, the expulsion is intended to be permanent, which as we shall see later challenges the meaning of international protection and increases the geopoliticisation of migration.

Expulsion-expansion

The expulsion-expansion pairing has been a constant in the history of the Palestinian people since the creation of the state of Israel in 1948. Then, the *Nakba* (“catastrophe” in Arabic) led to the death of 15,000 people and the forced displacement of 800,000. In 1967, with the Israeli occupation of Gaza and the West Bank, a further 300,000 Palestinians were forced to flee their homes. The expulsions have not stopped since. In the West Bank, they have been achieved through land seizures, the demolition of homes, the expansion of illegal settlements, and as a result of severe restrictions on movement within the territory. October 7th has only accelerated these processes, with a surge in attacks and murders perpetrated by settlers and punitive incursions on the part of the Israeli army. In Gaza, the Israeli government withdrew its military presence and the settlements in 2005, but it continues to exercise indirect control, with air, land and sea blockades that have made the population’s material living conditions extremely difficult.

The academic and human rights lawyer **Munir Nuseibah**, based in Al-Quds University in Jerusalem, has identified six methods through which the state of Israel has driven the forced displacement of the Palestinian population over the years. The first method is direct and relates to the violence inflicted on the civilian population in times of war. The second is the outcome of administrative engineering, for example constructing precarious and revocable forms of both residency and nationality. According to **Israel’s**

Ministry of the Interior, 14,152 Palestinians lost their residency between 1967 and 2011. In 2003, there were estimated to be as many as **10,000 unregistered minors** in East Jerusalem. The third mechanism includes imprisonment and deportation, often as punishment for exercising fundamental political rights such as demonstrating or expressing opinions. According to a report by the United Nations special rapporteur for the occupied Palestinian territories, **Francesca Albanese**, since 1967 over 800,000 Palestinians, including children as young as 12, have been detained by the Israeli army, frequently without hard evidence or trial and subject to inhumane conditions.

The other mechanisms to forcibly displace the Palestinian population involve restricting life to such an extreme that there is no alternative but to take flight.

The fourth mechanism, then, relates to urban planning and the distribution of resources. For example, it includes Jewish settlements in occupied zones, legitimising the demolition of homes and even whole villages. It also includes infrastructure construction, starting with the 800 km of wall that stretch along the West Bank and surround Jerusalem. As well as annexing territories, this makes it difficult for the Palestinian population to work, live and move freely. It also includes the extraction of resources in the occupied Palestinian territories to Israel's own benefit or the expropriation of properties, for example in zones declared nature reserves. By way of illustration, **it is estimated** that 500 Palestinian villages have been destroyed by the Israeli government's parks and forests policy. The fifth mechanism is linked to the appropriation of land and property under discriminatory and openly biased courts. Lastly, restricting access to water, food and other basic products also plays a role in driving people from their homes. Restricted access to safe drinking water, exacerbated over the last year, is one of the starkest symbols of the violation of fundamental rights.

The history of the Palestinian people since 1948 shows that more expulsions of Palestinians spell further Israeli expansion. Facts aside, the expulsion-expansion pairing is also reflected in political discourse, which has become even more explicit over the last year. Just a few days after October 7th, for example, the Israeli minister Gideon Sa'ar **told** media that "Gaza must be smaller at the end of the war". Around the same time, a leaked **report** by Israel's intelligence service revealed plans to permanently transfer the inhabitants of Gaza to Egypt's Sinai Peninsula. The agriculture minister, Avi Dichter, **called it** the new "Gaza Nakba". In December, the hard-right politician and Israeli finance minister, Bezalel Smotrich, was **categorical**: "What needs to be done in the Gaza Strip is to encourage emigration. If

there are 100,000 or 200,000 Arabs in Gaza and not 2 million Arabs, the entire discussion on the day after will be totally different". On the plans for the day after, the proposition appears to be clear too. In late 2023, a real estate firm **espoused** starting to build in Gaza. In January 2024, several Israeli government ministers attended a convention of hundreds of settlers (titled "Settlement brings security") that **called for** rebuilding settlements.

Crisis of international law

Following the horrors of the Second World War, the Geneva Conventions of 1949, which were ratified universally, laid the foundations of international humanitarian law underpinned by a series of rules

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establishing minimum standards of humanity that must be upheld in any situation of armed conflict. Two years later, the Convention Relating to the Status of Refugees of 1951 defined the rights of refugees and the international rules (binding on all signatory states) to protect those who, unable to find protection in their places of origin, had no option but to flee. Gaza illustrates the calamitous failure of international law, both in the humanitarian field and regarding asylum.

In a **recent article**, Cordula Droege, chief legal officer of the International Committee of the Red Cross (ICRC), argued that international humanitarian law arose to protect the civilian population when prevention mechanisms or the peaceful resolution of conflicts failed. Ultimately, it implies recognising the right to war (where both sides can kill, injure, detain and destroy), but it prohibits them from dehumanising the adversary. It does not set out to end war, rather to make it humane, striking an equilibrium between two apparently irreconcilable imperatives: military necessity and our common humanity. This means unequivocally prohibiting acts such as torture, rape, taking hostages, targeting the civilian population or the wounded. In other areas the rules are more nuanced, but, in any event, they establish that civilian casualties must be avoided or minimised. The case of Gaza – as we have already said, with the highest daily death rate of the 21st century, mostly women and children – shows its unmitigated failure. A literal interpretation of the norms, which invokes the absence of clear violations, cannot justify the level of death, injury and destruction that international humanitarian law primarily aims to prevent.

When protection of the civilian population in conflict contexts fails, what remains is the right to asylum. But that requires crossing a border, and this is precisely what is completely out of the question for the inhabitants of Gaza. In a nutshell, they are driven to leave, but leaving is impossible. There are two reasons for this. First, granting them asylum in another country would mean facilitating and, in a sense, accepting Israel's plans – that is, the expulsion of the Palestinians from the Gaza Strip. Neighbouring countries like Jordan, Lebanon and Syria are only too aware; they have seen how Palestinian refugees settled permanently. There is little doubt that, once again, it would be a departure with no possibility of return, with a state of Israel that would not only refuse to allow them back but also roll out a policy of repopulation with Jewish settlers (in the style of the West Bank) that would make the resolution of the conflict even more difficult. In this respect, for many Palestinians staying is also a form of resistance. Second, the neighbouring countries have no appetite for more refugees or to import the Palestinian-Israeli conflict inside their borders more than it already is. King **Abdullah II** of Jordan (which borders the West Bank, but not Gaza) was succinct on the matter: "No refugees in Jordan, no refugees in Egypt".

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Responsibility in question

Given the circumstances, one might ask what the role of the United Nations has been as guarantor of the observance of international law and the protection of civilians. It is here where the longstanding division between the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and the Office of the United Nations High Commissioner for Refugees (UNHCR) comes in. Following the Arab-Israeli war of 1948, UNRWA was created in 1949 to attend to the development, education, health, social services and emergency aid to Palestinian refugees in Jordan, Lebanon, Syria, the West Bank and the Gaza Strip. When the convention on refugees was approved two years later in 1951, it was agreed that the right to seek asylum and UNHCR's mandate would not apply to those people already under the protection of another United Nations body or agency: in other words, the Palestinians. According to **James C. Hathaway**, a professor of law at the University of Michigan, this exclusion came in response to a dual concern: on one side, the concern of the Arab nations, which sought to

prevent a Palestinian diaspora from being denied the potential to pursue a state of their own; on the other, that of the European countries, who had no wish to see a substantial number of Palestinian refugees arrive at their borders.

As a result, since then, the Palestinian issue has remained exclusively in the hands of UNRWA. Yet experts like James C. Hathaway himself and **Jeff Crisp** argue that there are compelling reasons for UNHCR and Egypt to take joint responsibility for the fate of the inhabitants of Gaza. The first relates to the very article of the refugee convention – Art. 1(D) – that excluded the Palestinians, but only on a contingent and temporary basis. Specifically, this article states that should the United Nations (meaning UNRWA in this case) cease to (be able to) guarantee protection to the Palestinians, these people would "ipso facto" fall under the convention (ergo under UNHCR's mandate).

Many legal scholars, including **Jane McAdam** and **Guy S. Goodwin-Gill**, suggest that it is time to weigh this option given UNRWA's difficulties in providing protection. It must be remembered that these difficulties

have been determined by the direct action of the state of Israel, which has placed suffocating restrictions on humanitarian aid, putting the safety of UNRWA workers at risk (take the six staffers killed in an attack on a school in **September 2024** for example). And it has accused the agency of terrorism, which has

prompted many key donors to withhold funding (the United States included), even when no **hard evidence** has been forthcoming. According to **Yara M. Así**, from the standpoint of the state of Israel putting an end to UNRWA would not only facilitate its expulsion plans but also improve the chances of ending recognition of the Palestinians as refugees and, therefore, their right to return.

The second reason for extending protection of the Gaza population beyond UNRWA is related to the principle of non-refoulement. The convention on refugees (Art. 33), the International Covenant on Civil and Political Rights (Arts. 6 and 7) and the Convention Against Torture (Art. 3) all oblige states not to turn people away at their borders if returning them could pose a risk to their lives. Given the circumstances of extreme emergency in Gaza, there is no doubt that rejection at the border with Egypt could well present such a case. If so, Egypt, as a signatory to the refugee convention, and by extension UNHCR, would be responsible. Yet neither Egypt nor UNHCR, which has barely commented on the issue of Palestinian refugees in Gaza, appears

willing to acknowledge that responsibility. As **Jeff Crisp** states, while reluctance to facilitate the state of Israel's expulsion plans is understandable, the right to asylum is (or should be) a universal and non-negotiable right.

Without the right to leave and to recognition of international protection, the choice is this: either remain under bombardment and in a permanent state of emergency or pay between **\$5,000 and \$10,000** per person to get out. In May 2024, it was **revealed** that Egyptian companies like Hala Consulting and Tourism Services had exploited the situation by charging mounting sums to facilitate the border crossing and provide transport to Cairo. The firm is estimated to have made around \$2m a day, hitting \$118m in profits from February to April 2024 alone. The extortionate fees these companies charge is not only attributable to the high levels of corruption at the border but also, as some media outlets have reported, to their direct relations with the Egyptian army and even with the president himself. But fleeing is no guarantee of protection either. Once in Egypt, most remain in **legal limbo**, with no residence permit and therefore no access to basic services, in a country that hosts 9 million refugees (1 million recognised by UNHCR) and in increasingly precarious socioeconomic conditions.

Geopoliticisation of migration

As they are expelled by the state of Israel and shunned by neighbouring states, the Palestinian refugee issue has become a key element of international relations. It is what we might define as the geopoliticisation of migration. That is to say, when states use their migration policy as a means of conditioning foreign policy or, conversely, when they turn foreign policy into a tool for purposes of migration management. Normally, the two strategies occur at the same time and are reciprocal. While the former exploit their geographical situation and capacity to contain migratory flows to put pressure on the latter in their demands in certain foreign policy areas, the latter base their foreign policy on the former's readiness to collaborate on migration matters, externalising migration control and with that limiting the arrivals of irregular migrants at their borders.

In this regard, there is no doubt that the October 7th attacks have placed Egypt centre stage. For the Egyptian government, the invasion of Gaza meant gaining bargaining power at a moment marked by one of the worst economic crises of its recent history and by unprecedented levels of debt. By way of illustration, Egypt is the second-largest debtor to the International Monetary Fund (IMF), with an external debt amounting

to a total of \$164.5bn, according to the **Central Bank of Egypt**. In the new context marked by the war in Gaza, and as a country that is too big to be allowed to fail in an increasingly unstable region, in March 2024 the **IMF** (with the United States behind it) raised the initial loan from \$3bn to \$8bn. There were also **rumours** of cancelling its debt in exchange for agreeing to take in Palestinian refugees in the Sinai Peninsula. While the Egyptian minister denied there had been pressure in that regard on the part of the United States and Israel, history reveals that debt cancellation has been used before as a bargaining tool. In 1991, for example, the United States and its allies wrote off half of Egypt's debt in exchange for its participation in the anti-Iraq coalition in the second Gulf war.

The relations between Egypt and the European Union (EU) have been more explicit, with the signing of a migration deal in March 2024 in the style of those struck

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previously with countries such as Turkey, Tunisia and Mauritania. True, the negotiations began prior to October 7th, but it is also true that the invasion of Gaza (and the prospect of a surge in Palestinian refugees heading for Europe) added extra urgency to the talks. Then vice-president of the European Commission, Margaritis Schinas, **described** Egypt as an "important and reliable" partner in the management of migration. According to European Commission President **Ursula von der Leyen** herself, "Egypt's role is vital for the security and stability of the Middle East, and it hosts a growing number of refugees". But only a fraction of the €7.4bn pledged to Egypt in the agreement of March 2024 is earmarked for managing migration (€200m). The rest is made up of favourable loans to aid Egypt's economic development (€5bn) and investments in the energy sector (€1.8bn). This means that while we are witnessing a gradual geopoliticisation of migration (where cash is exchanged for control, with no conditionalities in terms of human rights, remember), we should not lose sight of the fact that migration is one element of exchange among many.

International relations aside, the Palestinian refugee issue, and particularly the breach of international humanitarian law, has also entered domestic politics in many countries. Pro-Israel lobbies are important in countries such as the **United States** or the **United Kingdom**, and the history of the 20th century also steers many European governments in a similar direction. But the horrors suffered by the civilian population in Gaza over the course of the last year, and the indefensible inaction on the part of the international community,

have positioned a growing share of public opinion in favour of an end to the conflict and a peaceful solution with recognition of both states. That was already the case in most Arab countries, where government positions are much more lukewarm than those of their own people. This gap between the official government line and public opinion is widening in many Western countries too, reflected in the increasing mobilisation of student groups. It is not a minor issue. In fact, it could play a significant role in November's presidential elections in the United States, either shifting a part of the vote towards Kamala Harris or discouraging voters altogether.

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Return to international law

There is a common thread running through everything we have said so far: geopolitics comes before the law, interests before lives and destruction of the adversary before common humanity. We must return to international law and reconcile what is politically possible with what is acceptable and fair, or in other words, political equilibriums with legal principles. One thing cannot come at the expense of the other. Like any forcibly displaced person, the Palestinian people have the right to rebuild their lives in a safe place and with dignity. This means providing a multidimensional response: recognising their status as refugees and, therefore, their right to asylum; facilitating access to decent material living conditions; and tackling the solution which, as required by international law, means restitution and, for those who have fled, return. Anything else, that is to say continuing to prioritise interests over rights, is unacceptable, essentially because renouncing our common humanity can only be synonymous with barbarism.