

RIGHTS REVEALED

HUMAN RIGHTS AND ARMED CONFLICT PART 2

This educational explainer is designed to build knowledge and understanding of how international humanitarian law, also known as the laws of war, must be applied in this conflict. It provides an overview of the obligations under international humanitarian law, concerning the recent events in Israel and Gaza. It outlines the legal responsibilities of Israel, Hamas and other parties involved in the conflict, emphasizing the binding obligations regarding protection of civilians, the conduct of hostilities, and the provision of humanitarian aid.



WANT TO KNOW MORE About international human rights law and international humanitarian law first? Check out our Rights Revealed #1 on why human rights matter in armed conflict.

THE ESCALATING CONFLICT IN ISRAEL AND GAZA

The armed conflict between Israel and the Occupied Palestinian Territories (OPT) is one of the longest-running in modern history. It's also open to various interpretations, stories and misinformation. The present situation started with the surprise attack on Israel on 7 October 2023, in which Hamas and other armed groups killed at least 1,200 people and took over 200 hostages. But it is important to remember that one of the reasons for this conflict is Israel's **apartheid system** against Palestinians living in Israel and the Occupied Palestinian Territories and against Palestinian refugees, and the inhumane acts committed by Israeli authorities with the purpose of creating this system and keeping it in place.

“Apartheid” refers to an institutionalized regime of systematic oppression and domination by one racial group over another.

These acts include unlawful killings, torture, arbitrary detention, segregation, dispossession and displacement, and the denial of the right of return to Palestinian refugees. In Gaza, this system is most clearly revealed in:

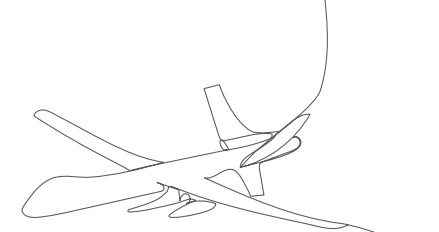
- ▶ the denial of right of return to more than 1.5 million refugees, who make up over 70% of Gaza's population, to the lands and properties their families were displaced from in 1947-1949;
- ▶ Israel's illegal blockade on the Gaza strip, imposed since 2007, and the restrictions, isolation and destruction linked to it.

Both international human rights law and international humanitarian law are fully applicable to the Occupied Palestinian Territories. Outside of the present conflict international human rights law is applicable in Israel, where Palestinians also live under a system of apartheid.



The OPT consists of the geographically separated areas of the West Bank (including East Jerusalem) and Gaza. The OPT have been occupied by Israel since 1967. To learn more about the history of this long-rooted conflict, take a look at our course ‘Deconstructing Israel's Apartheid Against Palestinians’ on the Amnesty Academy: <https://academy.amnesty.org/learn/course/external/view/elearning/239/deconstructing-israels-apartheid-against-palestinians>

HOW DOES INTERNATIONAL HUMANITARIAN LAW APPLY TO THE CURRENT ARMED CONFLICT?



International humanitarian law plays a vital role in safeguarding the lives and well-being of all those impacted by armed conflict, particularly civilians. International humanitarian law prohibits the deliberate targeting of civilians and civilian objects, such as homes, schools and hospitals. It emphasizes the need to distinguish between combatants (fighters) and civilians (those people who are not or are no longer taking part in hostilities). It requires that civilians are not the primary targets of attacks and are not being used as human shields. International humanitarian law further provides rules on the treatment of wounded, sick and detained persons, as well as access to humanitarian aid. All these safeguards are severely undermined by Israel's 16-year illegal blockade and further exacerbated by the tightened siege of Gaza since 7 October 2023. International humanitarian law highlights the importance of allowing impartial humanitarian organizations to assist those in need, including by providing medical care and essential supplies. It is a critical framework for protecting the lives, dignity, and well-being of civilians caught in the crossfire, setting out the obligation to avoid or minimize their suffering and harm.

BUT WHAT DOES THIS MEAN IN PRACTICE? CAN YOU APPLY THIS TO THE HUMANITARIAN CATASTROPHE IN GAZA AND THE LIVED EXPERIENCES OF ITS POPULATION?

1 NON-DISPLACEMENT AND EVACUATION

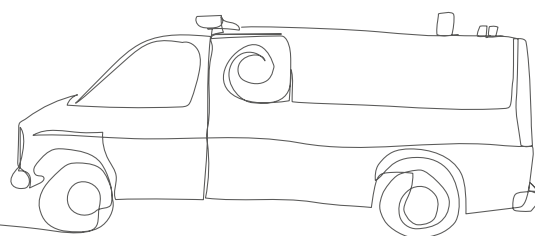
Imagine being forced out of your home without proper reasons, or in unsafe conditions. That's what international humanitarian law tries to prevent. It dictates that you can only be moved for your security or for imperative military reasons. Even then, it must be according to certain standards. Evacuations need to be safe, meaning that, as far as practically possible, proper accommodation and adequate health, hygiene and food standards must be provided; families shouldn't be separated. Once hostilities have ceased, you should be able to go home. For example, evacuating people to create an "open-fire" zone is not a good enough reason.

When Israel instructed some 1.1 million people living North of Wadi Gaza to evacuate, followed by airdropped leaflets threatening people to leave, in the middle of bombardments, while also intensifying the blockade on Gaza, and cutting off basic services such as electricity, water, food, fuel and humanitarian assistance, it violated international humanitarian law. Such orders cannot be considered effective warnings ahead of attacks on whole cities or regions. They disregarded the obligation to distinguish between military objectives and civilian objects and the prohibition on indiscriminate attacks. Israel's attempted "evacuations" in Gaza may constitute forced displacement and a form of collective punishment, in violation of international humanitarian law, and may even amount to war crimes.

2 HUMANITARIAN ACCESS AND RELIEF

Think of aid workers as neutral helpers, bringing food, medicine, and other necessary supplies. Humanitarian aid workers like those from the International Committee of the Red Cross and Red Crescent do not pick sides; they are impartial and neutral. Medical assistance is based on need, not allegiance, and humanitarian aid workers will help people regardless of which side they are on. Everyone involved in the conflict must let humanitarian personnel do their work safely. Parties to the conflict should also agree on safe places, like hospitals or shelters, where people can get what they need without fear.

All parties, including Israel, Hamas, and Egypt (which controls the Rafah Border Crossing) must facilitate rapid and unrestricted passage of impartial humanitarian relief. This includes ensuring safe passage for humanitarian personnel and supplies. They should cooperate to establish hospital and safety zones, providing shelter, food, water, electricity and medical services to those in need. Provision of humanitarian aid should be unconditional and in quantities that meet the dire needs of the civilian population.



3 CONDUCT OF HOSTILITIES

There are rules in fighting which aim to prevent harm to those not directly involved. International humanitarian law dictates that the parties to a conflict can't target people who are not or not anymore directly participating in hostilities (called civilians), or places that aren't military objectives (called civilian objects), and they must try their best to avoid or minimize harming or endangering them.

This means that both Israel and Palestinian armed groups, including Hamas, must respect international humanitarian law and cease indiscriminate attacks on civilians and civilian objects.

Israel's military response and operations in Gaza need to strictly follow the rules of international humanitarian law. They need to avoid direct, indiscriminate or disproportionate attacks on civilians or civilian objects, protecting medical facilities and personnel, and avoiding using certain weapons. For example, weapons containing white phosphorus, which is used as a smokescreen to obscure military operations, are forbidden to be used at or close to populated civilian areas.

Hamas and other Palestinian armed groups must urgently release all civilian hostages, treat military captives humanely and stop firing indiscriminate rockets.



4 RESTRICTIONS AND PROHIBITIONS

Imagine your entire community being stuck without water, food or electricity. That's what is happening to people in Gaza. Even hospitals are cut off from these basic services. This puts civilians in great danger. International humanitarian law requires parties to a conflict to allow necessary supplies in and not force people to leave their homes.

So, in accordance with international humanitarian law, Israel must permit humanitarian convoys into Gaza, restore utilities, and allow essential goods entry. Civilians should not be compelled to flee Gaza. Neighbouring countries, with international support, should provide sufficient and effective humanitarian aid to people inside Gaza, and provide medical care for those in urgent need of life-saving treatment which is not available in Gaza. Those who leave Gaza in the current conflict have a right to return to their home and this must be respected.

5 ADDRESSING DISPLACEMENT CONCERNS

Evacuating civilians with the intention of clearing an area and preventing residents to return after the armed conflict constitute war crimes and crimes against humanity. In Gaza, people are understandably worried because hundreds of thousands of people in the past were forced out of their homes in Palestine and couldn't return, which is against the rules of international law. Indeed, over 70% of Gaza's overall population are registered as refugees and are denied the right of return to towns and villages in Israel where their families were displaced from or forced to flee during the 1947-49 Nakba. The international community should be watching closely to make sure this doesn't happen again, and that those who leave can come back. Forcible transfer and deportation are war crimes.

6 NO JUSTIFICATION FOR WAR CRIMES

Israel's system of oppression, domination, segregation, fragmentation and dispossession over five decades of prolonged occupation, and the 16-year blockade on the Gaza Strip, do not, however, absolve Palestinian armed groups in the Gaza Strip of their obligation to respect international humanitarian law and international human rights law. On 7 October 2023, Hamas and other armed groups committed horrific acts in southern Israel. These acts included deliberate killings of civilians and summary killings, where a person is accused of a crime and killed immediately without a fair trial. Additionally, they took hostages. All these actions are considered war crimes. Indiscriminate rocket attacks by Hamas and other Palestinian armed groups, which killed and injured civilians, are also war crimes.

Similarly, crimes and violations by Palestinian armed groups on 7 October cannot justify Israel's collective punishment of Gaza's residents, and the direct, indiscriminate or disproportionate bombardment campaign against Gaza, which constitute war crimes. They also do not justify the arbitrary detention of thousands of workers from the Gaza Strip, who were present in Israel during the 7 October attack, nor the ill-treatment to which Palestinian detainees, including Hamas fighters, may be subjected. The prohibition on torture and other ill-treatment is absolute and cannot be justified under any circumstances.

In conclusion, the ongoing conflict and humanitarian catastrophe in Gaza stresses the critical importance of international humanitarian law in protecting civilians and other at-risk people during hostilities. A global plea for an immediate ceasefire resonates around the world, calling for all parties to halt the violence and safeguard human lives. Everyone involved in the conflict needs to follow and respect its rules, including state and non-state armed groups. Humanitarian assistance must be guaranteed to those in need. The whole world needs to keep an eye on the situation, stepping in when needed to make sure international humanitarian law rules are followed, to stop things from getting worse for the everyday people living through it.

LAWFUL VERSUS UNLAWFUL

Building our knowledge on the rules of international humanitarian law – and how human rights are protected during armed conflict – will enable us to have informed discussions, critically engage with news and social media, and challenge misinformation. It may change our own perspective and enable us to take informed action.

Let's look at some scenarios of actions taken during armed conflicts to determine whether they are lawful or unlawful under international humanitarian law.

LAWFUL

- ▶ Shooting enemy soldiers/fighters who participate in hostilities
- ▶ Capturing enemy combatants/fighters for intelligence gathering and to prevent further hostilities
- ▶ A medic treating the most severely wounded soldiers/fighters first, regardless of which side they are on
- ▶ Allowing humanitarian aid workers to bring food and medicines to civilians
- ▶ Evacuating civilians from a dangerous conflict zone to a more secure area
- ▶ Establishing hospitals and safety zones where people can access necessary resources without fear

UNLAWFUL

- ▶ Shooting enemy soldiers/fighters that have surrendered and laid down their arms, or are too wounded to fight
- ▶ Shelling a hospital or a school which is not used for military purposes
- ▶ Firing rockets or other weapons that do not distinguish between soldiers/fighters and civilians
- ▶ Bombing military targets knowing that a disproportionate number of civilians will also be killed
- ▶ Destroying the drinking water supply to a city or area inhabited by civilians
- ▶ Preventing the delivery of food and medicine to civilians in areas controlled by the enemy
- ▶ Torturing captured soldiers/fighters to obtain intelligence, even if it will save many lives
- ▶ Forcing civilians to accompany soldiers, like a human shield, to stop or prevent attacks from the enemy
- ▶ Taking hostages

CONSIDERING THIS, CAN YOU IDENTIFY ANY RECENT EXAMPLES OF LAWFUL AND UNLAWFUL ACTIONS IN THE CONFLICT BETWEEN ISRAEL AND HAMAS?



DEBUNKING MYTHS

In discussions about armed conflicts, several misunderstandings and misconceptions often arise regarding the application and implications of international humanitarian law. These myths can skew public perception and hinder our ability to comprehensively understand the nuances of conflict dynamics. Here, we address some common myths related to the conflict between Israel and Hamas and provide clarifications grounded in facts and law.

MYTH: The conflict between the State of Israel and Hamas is too complex for international humanitarian law to apply.

DEBUNK:

International humanitarian law applies to all armed conflicts, regardless of their complexity. The principles of international humanitarian law, such as the protection of civilians, medical personnel and detained persons, apply to all parties in the conflict in Israel and Gaza.

MYTH: Settlements in occupied territories are permissible if they're established for security reasons.

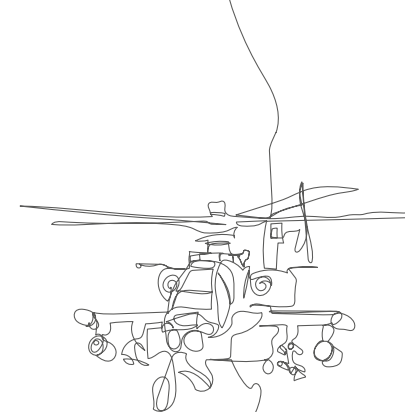
DEBUNK:

According to the Fourth Geneva Convention, it is unlawful for the occupying power to transfer their civilian population into the occupied territory, no matter the reason behind it. This is why the establishment of Israeli settlements in Palestine is a war crime.

MYTH: It is permissible to target civilian infrastructures if there are suspected military operations in that area.

DEBUNK:

Many people claim Hamas operates from schools and hospitals. They then use this claim to justify attacks on civilian infrastructure in Gaza. But international humanitarian law strictly forbids attacks on civilian objects, unless they are used for military purposes and they therefore become military objectives under the law. Even if a civilian object becomes a military objective, an attack is prohibited if it may be expected to harm civilians or damage civilian infrastructure in a way excessively compared to the anticipated military gain. This is the principle of proportionality. Deliberately striking civilian objects is a war crime, as is launching disproportionate attacks. Even if civilians are used by one side as a human shield, this doesn't give the opponents the right to attack them indiscriminately or disproportionately. Every effort must be made to confirm that targets are military objectives and to avoid or reduce accidental civilian harm.



DEBUNKING MYTHS

MYTH: The blockade of Gaza is permissible under international law.

DEBUNK:

Israel has imposed an illegal blockade on Gaza since 2007. This means Palestinians in Gaza are cut off and facing severe restrictions on freedom of movement and access to essential goods, services and resources. They are basically living in an open-air prison, not allowed to leave Gaza. Israel is now tightening the restrictions even further, cutting off electricity, food, water and medical supplies, thus creating a catastrophic humanitarian crisis. Blockades that result in excessive harm to the civilian population are prohibited under international humanitarian law. Any blockade must allow for the passage of humanitarian aid and must not lead to the starvation of civilians or lack of necessary medical supplies. The blockade on Gaza is inhumane and amounts to collective punishment, which is a war crime.

MYTH: International humanitarian law does not apply to non-state armed groups like Hamas.

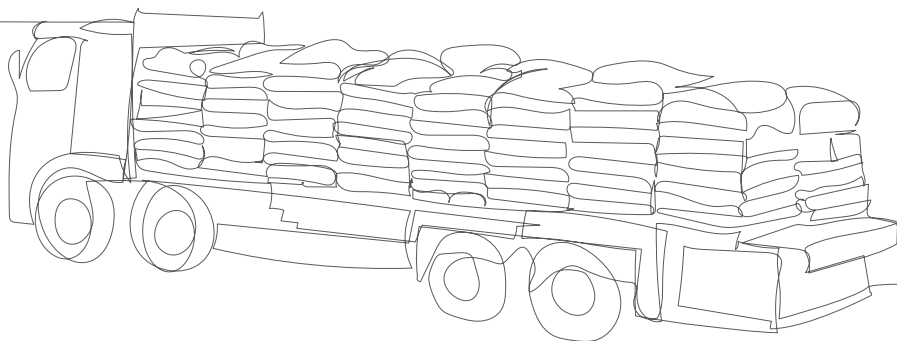
DEBUNK:

International humanitarian law applies to all parties to an armed conflict. This includes non-state armed groups, which are groups that are organized but not formally part of or affiliated with a government, like rebel forces, opposition militias and organizations like Hamas. Regardless of their legal status, groups like Hamas are bound by international humanitarian law when they engage in hostilities.

MYTH: Civilians in Gaza have been warned by Israel to leave. If they don't do so, they become legitimate targets or accept the risk of being killed.

DEBUNK:

The principle of distinction in international humanitarian law clearly states that parties to a conflict must always distinguish between civilians and combatants/fighters. Civilians in Gaza are protected against attack unless they take direct part in hostilities. They do not become legitimate military targets simply because they did not, or could not, evacuate. Civilians do not waive their protected status by remaining in their homes during hostilities.



DEBUNKING MYTHS

MYTH: Gaza is no longer occupied by Israel since the 2005 disengagement.

DEBUNK:

Even though Israel declared a unilateral withdrawal from Gaza in 2005, dismantling over 20 illegal settlements and evacuating Israeli settlers and soldiers, Gaza remains an occupied territory. Israel continues to exert effective control over Gaza and its borders, even without having “boots on the ground”, by imposing an effective sea, air and land blockade on the Gaza Strip. In addition to being occupied, Gaza is subjected to Israel’s system of apartheid, which is imposed against all Palestinians. The illegal blockade, unlawful killings, the systematic practices of arbitrary detention and torture, and the isolation and fragmentation of Gaza from the rest of the OPT, are some of the tools designed to maintain this system.

MYTH: ‘They deserve what’s coming at them’.

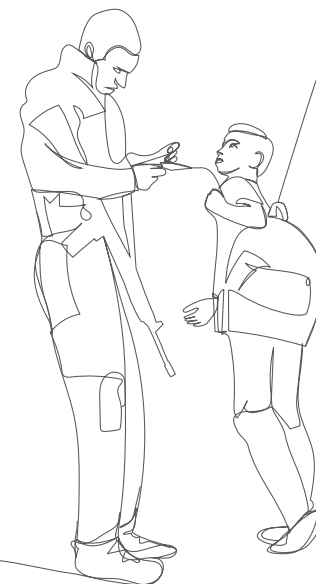
DEBUNK:

This statement is one that you might have heard on either side of the conflict. It is a very dangerous one, as it dehumanizes individuals, strips away the context of their suffering, and justifies violence. It violates the fundamental principles of international humanitarian law, which emphasize the protection of civilians, the necessity of treating all individuals with humanity on either side, and the prohibition of collective punishment.

MYTH: The conflict started on 7 October 2023 when Hamas and other armed groups attacked southern Israel.

DEBUNK:

Israel’s system of apartheid against Palestinians, including in the Gaza Strip, the prolonged occupation of the OPT, and the illegal and inhuman blockade of Gaza precede the 7 October 2023 attack, as does the near-total impunity for war crimes and crimes against humanity committed by Israeli authorities. These are the root causes of the current conflict that must be addressed. Yet, none of that can be invoked to justify the war crimes and other human rights abuses committed by Hamas and other armed groups on 7 October. Further, regardless of the timeline or who fired first, international humanitarian law must be respected by all parties to a conflict at all times, and the lives of civilians protected.



DEBUNKING MYTHS

MYTH: Civilians have been killed on either side but only as a result of the current armed conflict.

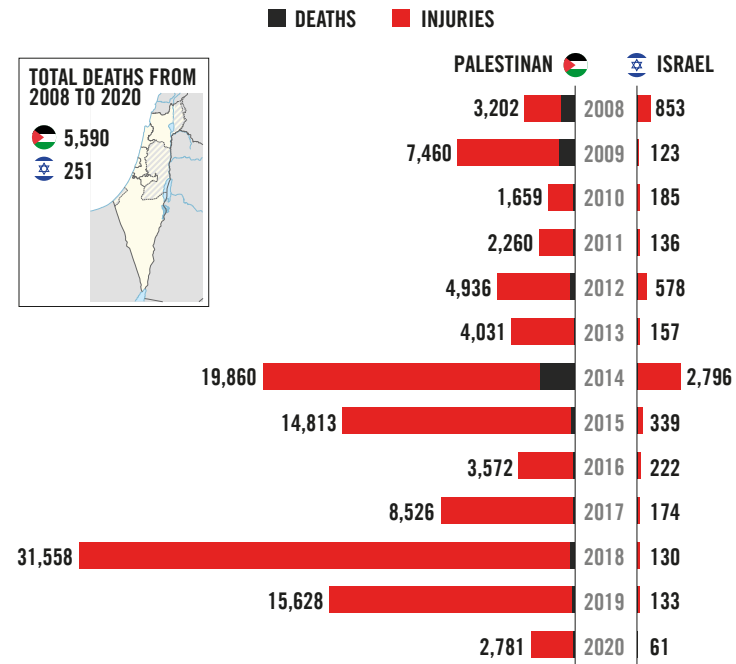
DEBUNK:

The reality is more complex, as civilian casualties often occur outside periods of active warfare. B'Tselem, the Israeli Information Center for Human Rights in the OPT, reports that from 2000 to 2017, at least 4,868 Palestinians, including 1,793 children, were killed by Israeli forces in non-combat situations. These incidents, unrelated to active hostilities, highlight the constant risks faced by civilians and the importance of adherence to humanitarian principles by all parties, regardless of a state of conflict. Since 7 October 2023, for example, 102 Palestinians have been killed in the West Bank, including 28 children, by Israeli forces or state-backed Israeli settlers.

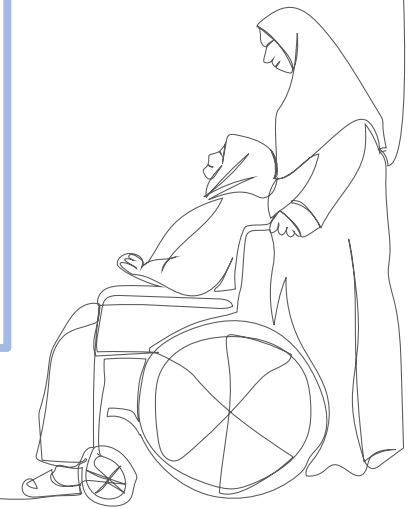


THE HUMAN COST OF THE ISRAELI-PALESTINIAN CONFLICT

Israeli & Palestinian deaths/injuries documented by the UN



Source: United Nations



CONVERSATION GUIDE AND REFLECTION QUESTIONS

Based on Educational Explainer #1 on international human rights law and international humanitarian law in armed conflict, and Educational Explainer #2 on the conflict between Israel and Hamas, these questions can provoke some self-reflection, or be used as a conversation guide if working with the materials in a group setting.

If you are using this as an educational resource or in group work, please prioritize creating a safe space for discussion and understanding. War and armed conflict may be triggering subjects for participants. Encourage open and respectful dialogue and be mindful of the emotional impact these topics may have on participants, or what lived experiences they might have. We want to emphasize the importance of self-care and emotional well-being when engaging with this material.

It is important to read and learn more to form your own opinion and to be able to distinguish facts from opinions, especially in times when 'fake news' and misinformation are rampant. How can you make sure that you are relying on trustworthy information? What are the elements that you would like to read more on, to get a better grasp of the escalating conflict in Israel and Gaza? Is there a piece of information you have just read about that you would like to inform yourself more on? We invite you to identify what stands out to you, what triggers your interest, what keeps you wondering, and to research more online. It is okay to ask questions, and it is even better to go and find answers from reputable sources.

Depending on your knowledge and background, some of these questions might require a bit more research!

1. Choose one of the myths listed in the document. Can you find additional information or context that supports or refutes this myth?
2. Can you identify any recent examples where international humanitarian law or international human rights law might have been violated in the escalation of the conflict between Israel and Hamas? What were the consequences?
3. Considering the events of the current hostilities, are there instances that could be classified as war crimes under international humanitarian law? How should responsible parties be held accountable?
4. Considering the historical context of Israel/OPT and the longstanding conflict, what do you think are the challenges and opportunities for achieving lasting peace?
5. How do the actions and strategies employed by Israel and Hamas affect civilian populations?
6. When hostilities happen in densely populated areas, how should the parties adapt their military strategies to avoid or minimize civilian casualties and suffering?
7. "Not every situation needs to be solved with military intervention." What are alternative solutions that you wish would be pursued by the parties in this conflict?
8. Long-term conflicts leave major psychological and social impacts on individuals and communities. How might these impacts influence the post-conflict reconciliation process?
9. How can individuals and communities contribute to a broader understanding of and respect for international humanitarian law?
10. What is the role of youth in peacebuilding processes? What unique perspectives and strengths can young people bring, and how can their engagement be enhanced?



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