



INTERNATIONAL LEGAL VIOLATIONS: HAMAS ATTACK OF OCTOBER 7, 2023

DECEMBER 5, 2023

CONTENT WARNING: THIS REPORT CONTAINS EXPLICIT GRAPHIC CONTENT, INCLUDING IMAGES AND DESCRIPTIONS OF KILLINGS, SEXUAL VIOLENCE, AND OTHER FORMS OF EXTREME VIOLENCE, WHICH MAY BE DISTURBING OR TRIGGERING TO SOME READERS



**Jerusalem
Institute of Justice**

The undersigned report is presented by the Jerusalem Institute of Justice (JIJ) and Zaka Search and Rescue (Zaka), both non-profit organizations holding Special Consultative Status under the Economic and Social Council of the United Nations.

JIJ, established in 2004, is a legal and research institute headquartered in Israel. It is dedicated to the promotion and safeguarding of human and civil rights on both local and international fronts, with a particular focus on investigating and reporting human rights violations in the Middle East.

Founded in 1995, ZAKA is Israel's primary non-governmental rescue organization with over 3,000 volunteers. On call 24/7, they respond immediately to terror attacks, disasters, and accidents, working closely with emergency services and security forces to address incidents of unnatural death.

This report is aimed at delineating several instances of international human rights law (IHRL) and international humanitarian law (IHL) violations perpetrated by Hamas and other Palestinian terrorist groups on October 7, 2023.

The instances of violations presented herein are not exhaustive and constitute only a partial representation of the atrocities perpetrated during the mentioned period.

REPORT ON INTERNATIONAL LEGAL VIOLATIONS: HAMAS ATTACK OF OCTOBER 7, 2023

INTRODUCTION - FACTS OCTOBER 7

On October 7, 2023, at 6:30 am, coinciding with the observance of Shabbat and Simchat Torah, sacred Jewish holidays, Hamas executed a deliberate and indiscriminate series of rocket attacks on Israel. This offensive, directed at civilians, simultaneously functioned as a strategic diversion used to facilitate the infiltration of over 1,500 terrorists into Israeli territory. Employing tractors, rocket-propelled grenades, and explosives, the assailants breached the Gaza security fence, gaining access to multiple towns in the southern region of Israel: Alumim, Ashkelon, Be'eri, Erez, Holit, Kerem Shalom, Kisufim, Kfar Aza, Magen, Mefalsim, Nahal Oz, Netivot, Netiv HaAsara, Nirim, Nir Oz, Nir Yitzak, Ofakim, Psyduck, Re'im, Sderot, Sufa, Yahini, Zikim.

Concurrently, a faction of terrorists targeted the Nova Music Festival held in a nearby open area. Upon infiltration, the terrorists perpetrated heinous acts, including murder (via shooting, beheading, and burning individuals alive), rape, and kidnapping. On the single day of October 7, the toll reached over 1,200 civilians murdered, and more than 200 individuals were taken hostage in the Gaza Strip. Currently, the identification process for the victims of the October 7 massacre is still ongoing.

PERPETRATORS OF INTERNATIONAL LAW VIOLATIONS

International Humanitarian Law

While it is contended whether the Israel-Hamas conflict is of international (IAC) or non-international (NIAC) character, the outcome of such debate is irrelevant for assessing the responsibility of Hamas and the other armed groups involved in the violations of international humanitarian law (IHL), which will be detailed in this report. The specific provisions that will be addressed in this report not only regulate the conduct of both State and non-state actors but also constitute customary international law.

International Human Rights Law

While the fact that IHL is binding both for states and non-state armed groups is not controversial, such a principle has been contested when it comes to IHRL. Nevertheless, there is an evolving practice according to which international human rights law (IHRL) also applies to non-state armed groups. Several bodies of the UN, including the Security Council, as well as Special Rapporteurs (SRs), have indicated that IHRL does apply to armed groups, especially in situations in which armed groups exercise some degree of control over a given territory or population.¹

¹ U.N. Human Rights Office, *International Legal Protection of Human Rights in Armed Conflict* (2011), https://www.ohchr.org/sites/default/files/Documents/Publications/HR_in_armed_conflict.pdf

The SRs on extrajudicial, summary or arbitrary executions, on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Representative of the Secretary-General on human rights of internally displaced persons, and the SR on adequate housing as a component of the right to an adequate standard of living established, in relation to Hezbollah, that “although Hezbollah, a non-State actor, cannot become a party to these human rights treaties, it remains subject to the demand of the international community, first expressed in the Universal Declaration of Human Rights, that every organ of society respect and promote human rights.”²

Regarding Hamas, various positions have been taken asserting that this armed group is subject to and has violated provisions of IHRL. The High Commissioner for Human Rights has explicitly affirmed that “Hamas in Gaza, carr[ies] obligations under international humanitarian law and international human rights law vis-à-vis the civilian populations in both Israel and the OPT.”³

Responsibility of the State of Palestine

The State of Palestine, a non-member observer state by the UN, has formally ratified various international human rights instruments and mechanisms, committing itself to the compliance of IHL and IHRL. These include the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT), the Convention on the Rights of the Child, and the Rome Statute, among others. Moreover, it was in its observations in relation to the request for a ruling on the Court’s territorial jurisdiction in Palestine that the State of Palestine explicitly affirmed its territorial boundaries by establishing that the “State of Palestine [...] includes the West Bank, including East Jerusalem, and the Gaza Strip.”⁴

2 U.N. Human Rights Council, *Mission to Lebanon and Israel (7-14 September 2006): report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston; the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, Paul Hunt; the Representative of the Secretary-General on Human Rights of Internally Displaced Persons, Walter Kälin; and the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, Miloon Kothari*, U.N. Doc. A/HRC/2/7 (Oct. 2, 2006), para. 19.

3 U.N. Human Rights Council, *Human rights violations emanating from Israeli military attacks and incursions in the Occupied Palestinian Territory, particularly the recent ones in the occupied Gaza Strip : report of the High Commissioner for Human Rights on the implementation of Human Rights Council resolution 7/1*, U.N. Doc. A/HRC/8/17 (June 6, 2008), para. 4.

4 Situation in the State of Palestine, Case No. ICC-01/18 (Mar. 16, 2020), The State of Palestine’s observations in relation to the request for a ruling on the Court’s territorial jurisdiction in Palestine, para. 2.

Moreover, UN bodies have already established the responsibility of the State of Palestine regarding the human rights violations committed in the Gaza Strip. This includes the recent Human Rights Committee concluding observations on the initial report of the State of Palestine,⁵ as well as the Committee Against Torture Concluding observations on the initial report of the State of Palestine.⁶ Both committees have commanded the State of Palestine to take specific measures to ensure that human rights obligations are also respected in the Gaza Strip.

VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW AND INTERNATIONAL HUMAN RIGHTS LAW

Torture and other cruel, inhuman, or degrading treatment or punishment

Legal framework

The CAT defines torture as an “act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as [...] intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”⁷

Torture is expressly prohibited even during states of war, as established in Article 2 of the CAT. In addition to the CAT, various formal treaties and legal instruments have acknowledged the unequivocal prohibition of torture. This norm is succinctly articulated in both the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). Article 5 of the UDHR and Article 7 of the ICCPR explicitly assert that “no one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.”

⁵ Human Rights Committee, Concluding observations on the initial report of the State of Palestine (Aug. 24, 2023) U.N. Doc. CCPR/C/PSE/CO/1.

⁶ Committee Against Torture, Concluding Observations on the Initial Report of the State of Palestine (Aug. 23, 2022) U.N. Doc. CAT/C/PSE/CO/1.

⁷ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 1(1), Dec. 10, 1984, 1465 U.N.T.S. 85 [hereinafter CAT].

The Geneva Conventions of 1949 and their Additional Protocols of 1977 encompass several provisions that categorically forbid torture and other cruel or inhuman treatment and outrages upon individual dignity. Moreover, Common Article 3 of the Geneva Conventions, which applies to NIACs, establishes fundamental rules from which no derogation is permitted. This article mandates humane treatment for all individuals in enemy custody, without discrimination. It explicitly prohibits actions such as murder, mutilation, torture, cruel, humiliating, and degrading treatment, the taking of hostages, and the imposition of unfair trials.

Furthermore, acts of torture not only constitute a violation of IHRL and IHL but also an international crime. The Rome Statute¹⁰ establishes that torture and inhuman treatment may amount to war crimes (art. 8(2)(a)(ii) and art. 8(2)(c)) and, if committed as a widespread or systematic attack against civilians, acts of torture and other inhumane acts intentionally causing great suffering or serious injury to the body or to mental or physical health can also amount to crimes against humanity (art. 7(1)(f)).

The Elements of Crimes for the International Criminal Court provides that the war crime of torture consists of the infliction of “severe physical or mental pain or suffering” for purposes such as “obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind.”¹¹ Unlike human rights law, exemplified by Article 1 of the Convention against Torture, the Elements of Crimes do not mandate that such pain or suffering be inflicted “by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”

As per the ICRC definition, inhuman or cruel treatment involves acts resulting in severe physical or mental pain, constituting a serious affront to individual dignity. Unlike torture, these acts need not be committed for a specific purpose. Humiliating or degrading treatment, as defined by the ICRC, comprises acts causing genuine and serious humiliation or a significant affront to human dignity. The intensity of such acts is such that any reasonable person would feel outraged.¹²

8 E.g. Geneva Convention (I) on Wounded and Sick in Armed Forces in the Field art. 12, August 12, 1949, 6 U.S.T. 3114, 75 U.N.T.S. 31 [hereinafter GCI], and Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), art. 75(2)(a)(ii) Jun. 8, 1977, 1125 U.N.T.S. 3 [hereinafter API].

9 GCI; Geneva Convention on Wounded, Sick, and Shipwrecked Members at Sea art. 3, August 12, 1949, 6 U.S.T. 3217, 75 U.N.T.S. 85; Geneva Convention Relative to the Treatment of Prisoners of War art. 3, August 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135; Geneva Convention Relative to the Treatment of Civilian Persons in Time of War art. 3, August 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287. [hereinafter Common Article 3].

10 Rome Statute of the International Criminal Court, July 17, 1998, 2187 U.N.T.S. 90 [hereinafter Rome Statute].

11 Elements of Crimes, 2011, Article 8 (2) (a) (ii)-1.

12 International Committee of the Red Cross, Torture and other forms of ill-treatment: The definitions used by the ICRC, ICRC (Jan. 2, 2016), <https://www.icrc.org/en/document/torture-and-other-forms-ill-treatment-de%EF%AC%81nitions-used-icrc>.

Acts of torture and inhuman or degrading treatment committed on October 7

This section details specific instances of torture and other inhuman or degrading treatment committed by the terrorists who infiltrated Israel on October 7th. The information was gathered by Zaka on the day of the attack and in the subsequent days. Additionally, the following sections of the present document highlight additional instances that, while falling under other violations, also constitute torture.

In addition to the documented evidence of torture and inhuman treatment included in this report, the terrorists engaged in numerous other violations of this prohibition. Furthermore, following the October 7th attack, Hamas persisted in perpetrating torture and inhuman treatment, impacting both the harmed hostages and inflicting psychological distress on their families. International legal precedent recognizes that family members of disappeared persons may endure torture due to the abduction of their loved ones.

In the case *Çakici v. Turkey*, the European Court of Human Rights clarified that a family member of a disappeared person might be deemed a victim of torture and inhuman treatment based on specific criteria. These criteria include the proximity of the family tie, the extent of the family member's witness to the events, efforts to obtain information about the disappeared person, and the authorities' response to those inquiries.¹³

The families of the individuals held hostage in the Gaza Strip comprise parents, sons, daughters, and siblings. Not only them but the entire world has witnessed the events, as Hamas' terrorists disseminated them through their media. All families have diligently sought information about the state and whereabouts of their loved ones from institutions mandated to act in such circumstances, including the International Committee of the Red Cross, encountering minimal to no assistance.

¹³ *Çakici v. Turkey* App. No. 23657/94 Eu. Ct. H. R. (July 8, 1999), para. 98.



A male, approximately 23 years old, is observed beside a mobile shelter (blue infrastructure) on the road 232, found on October 7-8.



He appears as if he is embracing something based on the position of his hands and arms. He sustained a gunshot wound to the head, with the bullet entering from the front. There are indications suggesting that he was dragged from behind by the shirt. His clothing, particularly the pants, appears burnt. The most severe burns are concentrated in the groin area.

A white car and other vehicles in the background are observed, from which additional victims escaped towards the mobile shelter due to alarms warning of the danger of rockets in the area.



Image of the inside of the mobile shelter on road 232, October 7-8. Approximately 20 bodies were found within the shelter. The victims were aged 18 - 23. In between the bodies, there were unexploded grenades. The victims inside were subjected to both gunshots and grenade explosions.

The shelter's original white walls now exhibit blackened surfaces due to extensive burning.

The available picture focuses solely on the shelter's entrance, offering a restricted perspective. Internally, bodies were found one on top of another.



This body was found on the 12th of October under the ruins of a residence in Be'eri. The body, presumed to be that of a male, exhibited signs consistent with being tied, particularly by the hands, which were found with several ropes.

The remains were extensively distorted. Notably, a rope was observed within the mouth, and two gunshot wounds were evident on the arm.

Additionally, a severed leg was located approximately 10 meters away from the main body.



Rape and other forms of violence against women

Legal Framework

The Convention on the Elimination of All Forms of Discrimination against Women delineates the parameters of discrimination against women.¹⁴ General Recommendation 19 of the Committee for the Elimination of Discrimination Against Women expands this definition to include gender-based violence, encompassing acts specifically directed against women or disproportionately affecting them.¹⁵ This includes physical, mental, or sexual harm, threats of such acts, coercion, and other liberty deprivations. Sexual violence extends to indecent assault, forced public nudity, sexual harassment (such as forced stripping), and mutilation of sexual organs. It is important to note that sexual violence and violence against women may fall within the prohibition against torture and other forms of ill-treatment.

Women have been especially targeted during armed conflict, and sexual violence has often been employed as a weapon of war. IHL directly addresses this through various instruments. Article 12 of the First and Second Geneva Conventions, as well as article 14 of the Third Geneva Convention, establish that “women shall be treated with all consideration due to their sex.” Article 27 of the Fourth Geneva Convention also establishes that “women shall be especially protected against any attack on their honor, in particular against rape, enforced prostitution, or any form of indecent assault.” Additionally, Article 76(1) of Additional Protocol I (API) explicitly mandates special respect and protection for women against rape, forced prostitution, and other forms of indecent assault.

As per NIACs Common Article 3 of the Geneva Conventions generally prohibits violence to life and persons, humiliating, degrading or cruel treatment, torture and outrages upon personal dignity, a description in which rape and other forms of violence against women can be included.

14 Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1465 U.N.T.S. 1249.

15 Committee on the Elimination of Discrimination against Women, General Recommendation No. 19 on Violence against women, (1992).

The Rome Statute, establishes in its art. 7(1)(g) that “rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity” can amount to crimes against humanity. Art. 8(2)(b)(xxii) and art. 8(2)(e)(vi), of the Rome Statute considers those same acts, first, a grave breach of the Geneva Conventions in the context of international armed conflict, and second, a violation of common Article 3, respectively, constituting war crimes. The International Criminal Tribunals on the former Yugoslavia (ICTY)¹⁶ and on Rwanda (ICTR)¹⁷ contemplate these provisions as well, establishing a legal and formal relation between gender-based violence directed discriminately against women and human rights violations of the most serious nature.

Acts of violence against women committed on October 7

During the October 7th attack, terrorists affiliated with Hamas and other armed groups committed numerous atrocities, specifically targeting women. In addition to the cases detailed below, instances of rape and sexual violence have been reported, supported by both victims' and witnesses'¹⁸ testimonies, as well as statements made by some perpetrators during their interrogations carried out following their detention.

16 U.N.S.C. Res. 808/1993, 827/1993, *Security Council resolution 827 (1993) on establishment of the International Tribunal for Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991*, (May 25, 1993), U.N. Doc. S/RES/827, art. 5(e).

17 U.N.S.C. Res. 955, *Statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January 1994 and 31 December 1994* (Nov. 8, 1994), U.N. Doc. S/RES/955, art. 3.

18 Josh Breiner, *Israeli Police Collect Eyewitness Testimony of Gang Rape During Hamas Attack*, HAARETZ, (Nov. 8, 2023), <https://www.haaretz.com/israel-news/2023-11-08/ty-article/israeli-police-collect-eyewitness-testimony-of-gang-rape-during-hamas-attack/0000018b-b025-d3c1-a39b-bee5ef400000>.



The body of a woman was uncovered on October 13th beneath the ruins of a house in Be'eri. The body was discovered in a state of undress, displaying indications of multiple stab wounds in her uterus, along with similar signs on her buttocks. Notably, a pair of scissors was found lodged in the groin area. She was bound by both her arms and legs.



The discovery of this woman's body in Be'eri on October 13th occurred after retrieving the body featured on the preceding page. This body, lacking a head, exhibited multiple injuries, notably visible in the elbow region. The photograph on the left captures one of the volunteers removing the rope used to tie her.



The remains of a woman were discovered on the 12th of October amidst the ruins of a house in Be'eri.

The entire body was burned, and this specific part constitutes the sole recovered fragment.

Arbitrary executions and violation of the right to life

Legal Framework

The right to life stands as one of the most fundamental rights intrinsic to human beings and is safeguarded by various instruments within IHRL, including the ICCPR and the European Convention on Human Rights. Article 6 of the ICCPR, a non-derogable provision, unequivocally states that "no one shall be arbitrarily deprived of life." Furthermore, General Comment 36 of the Human Rights Committee emphasizes that a deprivation of life lacking a legal basis or inconsistent with life-protecting laws and procedures is, as a rule, arbitrary in nature.¹⁹

This right remains non-derogable even in armed conflict situations. Customary law prohibits the intentional killing of civilians during armed conflict, a principle echoed in various instruments of IHL. The four Geneva Conventions identify willful killing as a grave breach, and Article 75(2)(a) of the 1977 Additional Protocol I (API) and Article 4(2)(a) of the 1977 Additional Protocol II (APII) affirm the universal prohibition of violence to life, particularly murder, regardless of the identity of perpetrators. In addition, and regarding NIACs, Common Article 3 prohibits violence to life and person, especially murder of all kinds.

It is imperative to highlight that under IHL, children not only fall under the safeguard of the right to life but also receive special protection. The API asserts that "children shall be the object of special respect and shall be protected against any form of indecent assault."²⁰ This protection extends to Non-International Armed Conflicts (NIACs) as outlined in Article 4(3) of the APII.

In accordance with Article 7(1)(a) of the Rome Statute, murder qualifies as a crime against humanity "when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack." Additionally, the Rome Statute also establishes that willful killing (art. 8(2)(a)(i)) and violence to life (art. 8(2)(c)(i)) can constitute war crimes.

Violation of the right to life committed on October 7

On October 7th, over 1,200 individuals lost their lives at the hands of the terrorists who infiltrated Israel that morning, with 36 of them being children. This report details specific cases of these murders, including those involving two children.

¹⁹ Human Rights Committee, General Comment No. 36 on Article 6: right to life, (Sep. 3, 2019) U.N. Doc. CCPR/C/GC/36, para. 11.

²⁰ API art. 77.



The truck in the picture contains bodies found on October 7-8 in the Nova Party area (Re'eim). The bodies were burned, and the intense heat caused them to stick together. Zaka workers and volunteers faced difficulty in separating these bodies due to the heat, which even melted the gloves of the workers and rendered it impossible to place the bodies into the bags.

It is estimated that this truck alone contained more than 40 bodies.



This body discovered in Be'eri on October 13th presented challenges in identification as only the foot remained unburned.



The body depicted in the picture corresponds to a child discovered in Be'eri inside a children and youth community center on October 13th. The boy was completely burned, and the head was detached from the body.



The body portrayed in these photos pertains to another child discovered in the same children and youth community center in Be'eri. The skull exhibited a significant hole, evidently the result of an impact with an object such as a hammer. Indeed, a hammer was found adjacent to the body, along with a knife embedded in the body tissues.

Genocide

Legal Framework

The Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) in its article II and the Rome Statute in its article 6 define genocide as “any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such:

- (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;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.”

In addition to the genocidal acts that constitute punishable international crimes, other behaviors are also subject to punishment. These include conspiracy to commit genocide, direct and public incitement to commit genocide, attempts to commit genocide, and complicity in genocide, as outlined under Article III of the Genocide Convention.

The essence of the crime of genocide lies in intent. To establish genocide, there must be proven intent on the part of perpetrators to physically destroy a national, ethnic, racial, or religious group. Determining such intent involves considering elements such as the words or general behavior of the perpetrator, the systematic and methodical manner in which the crimes were committed, or the premeditated nature of the crimes.

Genocide committed on October 7

As previously highlighted, the crime of genocide comprises two essential components: the physical element and the mental element. In terms of the physical element, there is unequivocal evidence that the actions perpetrated by the terrorists on October 7th encompass, at the very least, the killing and causing serious bodily or mental harm to members of the group—in this case, Israeli nationals. It's noteworthy that sexual violence can also constitute a form of genocide, as affirmed by the International Criminal Tribunal for Rwanda (ICTR) in the Prosecutor v. Akayesu case.²¹

²¹ The Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4-T, para. 731 (Sept. 2, 1998) [hereinafter Akayesu].

Regarding the mental element, through the Akayesu case,²² the ICTR found that the following criteria serves as a basis to establish the presence of the mental factor required to assess that genocide has been committed. For the purposes of this report, we will assess the facts of October 7th to establish that, indeed genocide was committed based on this criteria.

- *General context of the perpetration of other culpable acts systematically directed against that same group, whether these acts were committed by the same offender or by others:* the context of the perpetration of the attack can be framed in the genocidal intent that is enshrined in the Hamas Covenant of 1988, setting the groundwork for future actions. Moreover, the attack specifically targeted Israeli nationals and residents.
- *Scale of atrocities committed, and their general nature, in a region or a country:* the perpetrators of the attack committed the most atrocious ways of torture, killing, and inhuman and degrading treatment, resulting in 1,200 murdered individuals, more than 5,000 injured and more than 200 hostages taken. The magnitude of the assault on October 7th resulted in the highest number of Jewish people killed in a single day since the Holocaust.
- *Fact of deliberately and systematically targeting victims on account of their membership of a particular group, while excluding the members of other groups:* the perpetrators purposefully and methodically focused their attacks on particular communities, predominantly kibbutzim, characterized by a substantial concentration of Israeli nationals. Incriminating documents discovered in the possession of the terrorists included maps detailing the layout of these kibbutzim, accompanied by explicit instructions to "kill as many people as possible."²³
- *Speeches or projects laying the groundwork for and justifying the acts:* leaders of the armed groups orchestrating the attack unequivocally confirmed their genocidal intent and laid the groundwork through a series of speeches. For instance, during the 35th anniversary of Hamas on December 14th, 2022, Yahya Sinwar, Head of Hamas in Gaza, proclaimed, "We are coming in a roaring flood," and went on to declare, "One day we will meet in the squares of Jerusalem and Al-Aqsa clean of the Zionist invaders, and there will be no remnants of them in this holy land." Notably, the attackers named the assault the "Al-Aqsa Flood Operation."²⁴

22 Akayesu para. 523-524.

23 Anna Schecter, *'Top secret' Hamas documents show that terrorists intentionally targeted elementary schools and a youth center*, NBC NEWS, (Oct. 13, 2023), <https://www.nbcnews.com/news/investigations/top-secret-hamas-documents-show-terrorists-intentionally-targeted-elem-rcna120310>.

24 Dotan Gabay, *"The writing is on the wall": Sinwar's speech a year ago that revealed what was about to happen*, HADASHOT MiVZAK LIVE, (Nov. 27, 2023), <https://www.mivzaklive.co.il/archives/747806>.

In an interview with LBC on November 1st, Hamas leader Ghazi Hamad reinforced the genocidal narrative, stating, "Israel is a country that has no place on our land. We must remove that country because it constitutes a security, military, and political catastrophe for the Arab and Islamic nations. And it must be finished. We are not ashamed to say this, with full force. We must teach Israel a lesson, and we will do this again and again. The Al-Aqsa Flood is just the first time, and there will be a second, a third, a fourth because we have the determination, the resolve, and the capabilities to fight. Will we have to pay a price? Yes, and we are ready to pay it. We are called a nation of martyrs, and we are proud to sacrifice martyrs."²⁵

- *Massive scale of the destructive effect of the acts:* conclusively, the impact of the assault is starkly apparent, leading to the total devastation of around 20 towns, the tragic loss of 1,200 lives, and inflicting profound psychological distress upon both survivors and the entirety of the Israeli population.

In light of the presented evidence, it is irrefutable that the attack on October 7th, orchestrated by Hamas, meets the criteria for genocide as defined by international law. The intentional and systematic nature of the actions, coupled with the explicit declarations of genocidal intent, collectively establish that the attack of October 7th does amount to genocide.

25 Ginaluca Pacchiani and Michael Bachner, *Hamas official says group aims to repeat Oct. 7 onslaught many times to destroy Israel*, TIMES OF ISRAEL, (Nov. 1, 2023), <https://www.timesofisrael.com/hamas-official-says-group-aims-to-repeat-oct-7-onslaught-many-times-to-destroy-israel/>.

CONCLUSION

The comprehensive evidence in this report unequivocally establishes the October 7th attack by Hamas and other Palestinian armed groups as a severe violation of fundamental international laws and basic human principles. The atrocities detailed herein, though only a fraction of the transgressions committed, affirm the breach of specific International Humanitarian Law (IHL) and International Human Rights Law (IHRL) rules.

Considerable efforts by states, human rights defenders, international organizations, civil society, and others have been invested in establishing bodies and mechanisms, particularly within the United Nations, to uphold international law and ensure accountability for those who violate it. It is imperative that these UN mechanisms be leveraged to address the atrocities of October 7th.

In light of the above, we urge the implementation of all available actions to address the human rights and humanitarian law violations outlined in this document, along with the following specific measures:

- Advocate and activate accountability measures for the atrocities committed and raise awareness about the documented violations, both within the United Nations system and globally, and to garner support for preventive and accountability measures.
- Report the findings to the relevant bodies, including those of the United Nations.
- Implementation of preventive measures to deter future violations, such as increased monitoring, diplomatic pressure, and peacekeeping efforts, to mitigate the risk of further human rights abuses.
- Monitor the situation closely, providing regular updates and follow-up reports to assess the progress made in addressing the documented violations and implementing accountability measures.

The acts committed on October 7th represent the gravest violations of basic human rights, demanding urgent intervention and unwavering commitment to justice.

Submitted by the Jerusalem Institute of Justice (JIJ) and Zaka Search and Rescue (Zaka) on December 5, 2023



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