

**Jerusalem Institute of Justice Contribution to the Call for Inputs of the Special Rapporteur on Torture regarding Identifying, Documenting, Investigating, and Prosecuting Crimes of Sexual Torture Committed during War and Armed Conflicts, and Rehabilitation for Victims and Survivors**

April 24, 2024

The Jerusalem Institute of Justice (JIJ) expresses appreciation for the UN Special Rapporteur on Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment in taking the step of initiating a call for input regarding the topic of *Identifying, Documenting, Investigating, and Prosecuting Crimes of Sexual Torture Committed during War and Armed Conflicts and Rehabilitation for Victims and Survivors*. JIJ is a non-profit organization with Special Consultative Status at the United Nations Economic and Social Council, based in Israel, dedicated to promoting and protecting human and civil rights locally and internationally. In cases where abuses, such as torture, war crimes, and extrajudicial executions, are committed against Israelis and our vulnerable neighbors, we proactively advocate for their rights and seek meaningful solutions for positive change.

JIJ is deeply committed to the protection of the victims of the October 7th brutal attacks launched by Hamas and other terrorist organizations against Israel and its population. We understand the significant role an international human rights instrument of this kind could play in providing further investigation and measures, specifically through mechanisms for direct support to the victims of sexual torture.

As already highlighted in this call for inputs, there are countless challenges in identifying crimes of sexual torture that are perpetrated during an armed conflict. In relation to the October 7<sup>th</sup> attacks, we would like to focus on three specific challenges: (1) the sexual torture committed on someone who is murdered before/after the act, (2) the sexual torture committed on individuals who are being held hostage when there are clear indications of such acts being committed, and the (3) lack of support by international institutions, including the UN, for the victims of sexual torture.

**Facts of and from October 7**

On October 7, 2023, at 6:30 am, coinciding with the observance of Shabbat and Simchat Torah, sacred Jewish holidays, Hamas, together with other terrorist groups, including the Palestinian Islamic Jihad, executed a deliberate and indiscriminate series of rocket attacks on Israel. On this single day, Hamas launched more than 2,000 rockets directed toward civilians all over Israel.

This rocket offensive not only served to target civilians but also functioned as a strategic diversion, providing cover for the infiltration of approximately 3,000 terrorists into Israeli

territory.<sup>1</sup> Using drones, tractors, paragliders, scuba gear, rocket-propelled grenades, and anti-tank charges, the assailants breached the Gaza security fence and attacked multiple towns and music festivals 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, Nova (music festival) Ofakim, Psyduck (music festival), Re’im, Sderot, Sufa, Yahini, and Zikim.

Upon infiltration, the terrorists perpetrated numerous heinous acts, including murder (via shooting, beheading, mutilating, and burning individuals alive), rape, and kidnapping. On the single day of October 7th, Hamas murdered over 1,200 Israelis and foreign nationals, took over 250 hostages in Gaza (including children, women, and the elderly), and forced the evacuation of more than 70,000 civilians from southern Israel.<sup>2</sup>

After October 7, Hamas has continued to indiscriminately launch rockets toward the Israeli population. So far, there have been more than 11,000 rockets launched at Israel from the Gaza Strip. To this date,<sup>3</sup> approximately 112 hostages have been released as part of different agreements between Israel and Hamas and also as a result of rescue operations carried out by Israel’s army. There are still 133 hostages being held captive by Hamas in the Gaza Strip.

## **Challenges raised regarding the October 7<sup>th</sup> victims of sexual torture**

### Sexual torture and subsequent or previous murder of the victim

Understanding the full impact of sexual torture becomes particularly challenging when the majority of the victims who were raped or sexually assaulted were also killed. Nonetheless, a substantial body of evidence has been amassed by the Police Investigations Unit, Lahav 433, including over 50,000 visual documents and 1,500 testimonies from witnesses. A young woman, survivor of the Nova music festival, witnessed how a large group of Hamas gunmen raped and killed at least five women. She recalls how one was “passed on” from man to man while they were laughing and playing with her body, how another woman was “shredded to pieces,” and how another was “repeatedly stabbed in the back while she was being raped.”<sup>4</sup>

Forensic evidence and interrogations of suspects<sup>5</sup> also serve to document these cases and have helped to determine that more than 30 murdered women and girls showed signs of abuse on

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<sup>1</sup> Emanuel Fabian & Gianluca Pacchiani, *IDF estimates 3,000 Hamas terrorists invaded Israel in Oct. 7 onslaught*, THE TIMES OF ISRAEL (Nov. 1, 2023), <https://www.timesofisrael.com/idf-estimates-3000-hamas-terrorists-invaded-israel-in-oct-7-onslaught/>.

<sup>2</sup> Yuval Nisani, *An unprecedented event: 130 thousand people were evacuated from their homes*, GLOBES (Oct. 22, 2023), <https://www.globes.co.il/news/article.aspx?did=1001460723>.

<sup>3</sup> April 24, 2024

<sup>4</sup> Bethan McKernan, *Evidence points to systematic use of rape and sexual violence by Hamas in 7 October attacks*, THE GUARDIAN (Jan. 18, 2024) <https://www.theguardian.com/world/2024/jan/18/evidence-points-to-systematic-use-of-rape-by-hamas-in-7-october-attacks>.

<sup>5</sup> Emanuel Fabian, *In interrogation clip, captured terrorist confesses to raping Israeli woman on Oct. 7*, THE TIMES OF ISRAEL (Mar. 28, 2024), <https://www.timesofisrael.com/in-interrogation-clip-captured-terrorist-confesses-to-rape-israeli-woman-on-oct-7/>.

their bodies. Reservist Shari Mendes at the Shura military base in central Israel, who was in charge of washing the bodies of female soldiers and preparing them for burial, reported seeing women who had been raped, many of them with bloody shrouded rags with just their underwear, often very bloody as well. Forensic evidence also provided evidence of genital mutilation, finding female bodies with broken pelvis, with their legs split wide apart, shot in intimate parts, burnt or butchered.

Interrogations of captured Hamas members revealed that raping as many women and children as possible was a deliberate objective. Documents found among their possessions included instructions in Arabic on how to command victims in Hebrew to disrobe and expose themselves, indicating premeditation in their acts of sexual violence.<sup>6</sup>

The recent report drafted by the UN Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict has also recognized that there are reasonable grounds to believe that conflict-related sexual violence took place during October 7 attacks, including rape and gang rape.<sup>7</sup> It has also been reported that there were at least two incidents of rape of corpses of women.<sup>8</sup>

### Sexual torture committed to hostages

In addition to these horrific acts, sexual assaults were also reported during the captivity of hostages taken by the perpetrators. Released hostages recounted that both women and men suffered sexual assault or abuse while being held captive in Gaza.<sup>9</sup> Moreover, it has been confirmed that three women and a man who survived the attack of October 7 have been sexually assaulted, and another was gang raped.<sup>10</sup>

The report drafted by the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict has also confirmed that during its mission, they received “clear and convincing information that sexual violence, including rape, sexualized torture, and cruel, inhuman and degrading treatment occurred against some women and children during their time in captivity and has reasonable grounds to believe that this violence may be ongoing.”<sup>11</sup>

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<sup>6</sup> Anna Schecter, *Their bodies tell their stories. They are not alive to speak for themselves*, NBC NEWS (Dec. 6, 2023) <https://www.nbcnews.com/news/world/hamas-rape-israeli-women-oct-7-rcna128221>.

<sup>7</sup> U.N. Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, *Official visit of the Office of the SRSO-SVC to Israel and the occupied West Bank 29 January – 14 February 2024* ¶ 12 (Mar. 4, 2024) [hereinafter U.N. SRSO-SVC Report].

<sup>8</sup> U.N. SRSO-SVC Report ¶ 58.

<sup>9</sup> *At least 10 freed hostages were sexually abused in Hamas captivity, doctor says*, TIMES OF ISRAEL (Dec. 6, 2023) <https://www.timesofisrael.com/at-least-10-freed-hostages-were-sexually-abused-by-hamas-in-captivity-doctor-says/>.

<sup>10</sup> Jeffrey Gettleman, Anat Schwarts and Adam Sella, ‘Screams Without Words’: How Hamas Weaponized Sexual Violence on Oct. 7, NEW YORK TIMES (Dec. 28, 2023)

<https://www.nytimes.com/2023/12/28/world/middleeast/oct-7-attacks-hamas-israel-sexual-violence.html>.

<sup>11</sup> U.N. SRSO-SVC Report ¶ 71.

It is widely known that victims of sexual torture tend not to express openly the atrocities to which they have been subject. However, Amit Soussana, a 40-year woman who was abducted from her home in Kibbutz Kfar Azza on October 7, was the first Israeli to speak publicly about being sexually assaulted during captivity, providing extensive details of sexual and other violence she suffered, including being forced to commit sexual acts for her captor.<sup>12</sup>

With a substantial number of testimonies from hostages who have been released, the situation of the 133 people still held in captivity becomes more crucial every day, as there are no signals and reports of their health conditions. In the latest statement by the International Committee of The Red Cross of March 9, it says that, almost six months later, they still haven't received permission from Hamas to visit the hostages.<sup>13</sup> The lack of enforcement and pressure on Hamas regarding their obligations is resulting in the impossibility of protecting the hostages from being sexually tortured.

#### Lack of support for the victims by international bodies

Another concern that we would like to express regarding the victims of sexual torture of the October 7<sup>th</sup> attacks, as well as those hostages that have suffered or are suffering sexual abuses, is the lack of support and mechanisms in international bodies, including the UN, that generates a lack of trust and reluctance to report acts of sexual torture. We acknowledge the report drafted by the UN Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, recognizing the accounts of sexual violence perpetrated during the attacks and in the subsequent months. We also welcome the letter sent to the State of Palestine by you and the Special Rapporteur on extrajudicial, summary, or arbitrary executions in which it is stated that there are evidence and allegations made regarding sexual torture and the request for information regarding the duty to investigate such claims which must be complied by the State of Palestine.<sup>14</sup>

However, these efforts have remained insufficient and have come too late. International women's organizations stood a long period of silence, disregarding evidence of Hamas's use of sexual violence during the October 7 attacks. UN Women, a UN entity dedicated to gender equality, took 50 days to publish a post on its social media condemning the attacks of October 7<sup>th</sup> and then deleted it.<sup>15</sup> Only on December 1, 2023, almost two months after the attacks, the

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<sup>12</sup> Anna Schecter, *Their bodies tell their stories. They are not alive to speak for themselves*, NBC NEWS (Dec. 6, 2023) <https://www.nbcnews.com/news/world/hamas-rape-israeli-women-oct-7-rcna128221> and *Released hostage Amit Soussana recounts sexual assault at hands of Hamas captor*, THE TIMES OF ISRAEL (Mar. 26, 2024) <https://www.timesofisrael.com/released-hostage-amit-soussana-reveals-she-was-sexually-assaulted-by-hamas-captor/>.

<sup>13</sup> A statement on Gaza and Israel from the president of the ICRC, International Committee of the Red Cross (Mar. 9, 2024), <https://www.icrc.org/en/document/statement-gaza-and-israel-president-icrc>.

<sup>14</sup> AL PSE 3/2023, (Jan. 3, 2024)

<sup>15</sup> Jackie Hajdenberg, *After backlash over silence, UN Women tweets, then deletes, statement condemning Hamas attack in Israel*, PITTSBURGH JEWISH CHRONICLE (Nov. 28, 2023), <https://jewishchronicle.timesofisrael.com/after-backlash-over-silence-un-women-tweets-then-deletes-statement-condemning-hamas-attack-in-israel/>.

agency did publish statement expressing its concern for the alarming the gender-based atrocities caused by Hamas during the attacks.<sup>16</sup> This delayed reaction sparked outrage among Jewish and Israeli feminist groups, which created an environment of lack of trust towards one of the most important bodies for the protection of women's rights. Moreover, there are more UN agencies and officers who still refuse to acknowledge these atrocities.

In general, sexual violence in conflict zones is often a significantly underreported offense, primarily due to the trauma, stigma, and fear experienced by survivors.<sup>17</sup> However, the lack of support, which should have been given since October 7th, adds another obstacle that prevents the victims from reporting the sexual torture to which they have been subjected.

Moreover, it is worth highlighting that there are almost no international mechanisms for the victims to directly report these acts, making the reporting dependent on the actions of most states. As an organization with Consultative Status at the UN that fights for the rights of the victims of human rights abuses, we have encountered several obstacles in presenting these arguments.

## Recommendations

To address the severe challenges identified in this submission, we strongly recommend the implementation of more robust mechanisms to support the victims of sexual torture. These mechanisms must be more accessible directly to victims or through representative bodies such as NGOs, independent of state actions. Enhancing the accessibility and visibility of these mechanisms will empower victims and organizations advocating on their behalf to take decisive action.

Additionally, we believe international bodies, including the United Nations, should acknowledge and increase awareness and action regarding the sexual torture that occurred during the October 7th attacks and the ongoing plight of hostages. Establishing a dedicated forum for addressing these grave concerns is imperative, ensuring that these issues receive the global attention and immediate action they warrant and that the perpetrators of such acts are held accountable.

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<sup>16</sup> UN Women statement on the situation in Israel and Gaza, UN WOMEN (Dec. 1, 2023), <https://www.unwomen.org/en/news-stories/statement/2023/12/un-women-statement-on-the-situation-in-israel-and-gaza>.

<sup>17</sup> U.N. Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, *Official visit of the Office of the SRSG-SVC to Israel and the occupied West Bank 29 January – 14 February 2024* ¶ 56 (Mar. 4, 2024) [hereinafter U.N. SRSG-SVC Report].