



# A Quest for Justice

October 7 and Beyond

---

THE DINAH PROJECT

Ruth Halperin-Kaddari • Nava Ben-Or • Sharon Zagagi-Pinhas



**The  
Dinah Project**  
October 7. Sexual Violence

# A Quest for Justice

October 7 and Beyond

---

**Recognition and justice** for victims  
**of sexual violence in conflict**

Remembering the atrocities of October 7th, 2023.  
Holding perpetrators accountable.

**This book is dedicated to the victims of sexual violence on October 7 — and to all those, everywhere, who have suffered such crimes.**

### **The Cry**

- Sivan Har-Shefi

Anyone seeking to cope with a cry –  
must have ears  
must have a heart  
with walls  
supple ones.

Anyone seeking to cope with a cry  
Must have a cry  
from the past or in the present or  
the sensation of an imminent cry  
sprouting from within or  
a distant relative who  
as far back as memory serves, cried out  
but no one ever bothered to ask  
after her, and that in itself, that is  
the distance, the apathy or fear,  
the hushed desire –  
an outcry.

Anyone who wants to write about the cry  
anyone who wants to write the cry  
needs to know how to stay silent for a long time  
to restrain, hand as well  
and thin out partitions  
to stretch taut strings over the echo chamber  
carry them along, the strings  
not to strum them, but to rip them out

[...]

---

An excerpt from: 'The Cry'.

**From Afar**, Sivan Har-Shefi

(Hakibbutz Hameuchad Publishing House, 2023, p. 20).

Translated by: Laura Wiseman.

# A Quest for Justice

October 7 and Beyond

---

Authors: **Prof. Ruth Halperin-Kaddari**, Judge (Ret.) **Nava Ben-Or**,  
**Att. Col (Res.) Sharon Zagagi-Pinhas**

Visual Editor: **Nurit Jacobs-Yinon**

---

## Members of the Dinah Project

**Prof. Ruth Halperin-Kaddari**, Founding Member, Founding Academic Director, The Rackman Center, Bar-Ilan University

**Att. Col (Res.) Sharon Zagagi-Pinhas**, Founding Member, Director of the Dinah Project

**Judge (Ret.) Nava Ben-Or**, Founding Member

**Eetta Prince-Gibson**, Member

**Nurit Jacobs-Yinon**, Creative Director, Branding & Visual Strategy, Member

---

## Advisory Board Members

Aharon (Ronny) Leshno-Yaar, Israel

Amit Soussana, Israel

Beate Rudolf, Germany

Carol Gilligan, USA

Dahlia Lithwick, Canada

Deborah Lyons, Canada

Dorit Beinisch, Israel

Gadeer Kamal-Mreeh, Israel

Gal Gadot, USA / Israel

Majed El Shafie, Canada

Noa Tishby, USA / Israel

Raheel Raza, Canada

# למען האמת

המאבק לצדק – השבעה באוקטובר ומעבר לו

---

## **The Rackman Center:**

Shelly Blatt Zak, CEO

Keren Horowitz, Former CEO

Leah Goepfingher-Levy

Shery Fireberger

---

Design: **Studio GLD**

Print Production: **Jerusalem Fine Art Prints Ltd.**

Linguistic editing, the Dinah Project and Report: **Eetta Prince-Gibson**

Language editing: **Talia Trainin**

Translation and digital services: **Glocal- Translations and Language Solutions**

Hebrew translation: **Idan Barir**

---

## **Cover image**

**Zoya Cherkassky**, *The Terrorist Attack at Nova Music Festival, 2023*, mixed media on paper. Courtesy of the artist and Fort Gansevoort Gallery, NY.

The images featured in this book are taken from the film *Screams Before Silence* with Sheryl Sandberg, produced by **Kastina Communications**.  
Executive Producers: Carol and Joey Low, Meny Aviram, and Eytan Schwartz.

---

June 2025

Printed in Jerusalem

Copyright ©the Dinah Project

All rights reserved

ISBN 978-965-597-381-5



9 789655 973815



[www.thedinahproject.org](http://www.thedinahproject.org)



# The Dinah Project

October 7. Sexual Violence



Bar-Ilan  
University  
אוניברסיטת בר-אילן



The Ruth & Emanuel  
Rackman  
Center  
Faculty of Law  
Bar-Ilan University

---

The Dinah Project, headed by a team of leading legal and gender experts, was established in response to the Hamas terror attack on Israel of October 7, 2023. Through the multi-disciplinary knowledge and skills of its members, the Dinah Project has become the leading resource for recognition and justice for the victims of Conflict Related Sexual Violence (CRSV) on October 7 and subsequently. Operating under the auspices of the Ruth and Emanuel Rackman Center for the Advancement of Women at Bar-Ilan University, the project aims to reshape the discourse on CRSV, by taking October 7 as a catalyst to develop groundbreaking tools and strategies that combat denialism and ensure accountability in CRSV cases worldwide.

# Contents

---

<b>Introduction to the Dinah Project Report .....</b>	<b>12</b>
<b>Executive Summary: The Dinah Project Report.....</b>	<b>14</b>
Overview and Purpose .....	14
Key Findings: The Nature and Scope of Sexual Violence .....	14
Evidentiary Framework.....	15
Legal Framework: Addressing Criminal Responsibility .....	16
Adapting Evidentiary Paradigms for CRSV .....	16
Key Recommendations .....	17
Conclusion and Implications.....	17
<b>Preface.....</b>	<b>18</b>
<b>Methodology.....</b>	<b>22</b>
<b>The Distinctiveness of CRSV and the Use of Sexual Violence as a Weapon of War .....</b>	<b>24</b>
<b>Official Reports on CRSV of October 7 .....</b>	<b>26</b>
I. The SRSG Report of March 2024 .....	26
II. The Col Report of June 2024 .....	28
III. ICC Arrest Warrant of November 2024 .....	29
<b>The Evidentiary Framework .....</b>	<b>30</b>
<b>First Group: Information Provided by First-Hand Survivors .....</b>	<b>31</b>
A. General Context of this Group .....	33
B. Group Summary .....	34
C. Overall Themes.....	34





---

<b>2<sup>nd</sup> Group: Information Provided by Eyewitnesses and Earwitnesses in Real Time</b> .....	<b>35</b>
A. General Context of this Group .....	35
B. Group Summary .....	36
C. Overall Themes.....	37
<b>3<sup>rd</sup> Group: Information Provided by First Responders</b> .....	<b>38</b>
A. General Context of This Group.....	38
B. Summary of the Findings .....	38
C. Overall Themes.....	39
<b>4<sup>th</sup> Group: Information Provided by Second Responders – Attendants at the Shura Morgue (Military Base Identification Station)</b> .....	<b>40</b>
<b>5<sup>th</sup> Group: Healthcare Providers and Therapists</b> .....	<b>40</b>
<b>6<sup>th</sup> Group: Visuals and Other Evidence</b> .....	<b>41</b>
<b>The Boundaries of Criminal Responsibilities</b> .....	<b>42</b>
Introduction .....	42
The Legal and Strategic Challenge.....	43
<b>Joint Responsibility in Mass Attacks with Genocidal Intent</b> .....	<b>44</b>
A. Motivational Genocidal Indoctrination .....	44
B. Sources of Indoctrination.....	45
<b>Mass Assault under Indoctrination in Genocide and Crimes against Humanity: Adjusting the Boundaries of Joint Responsibility</b> .....	<b>47</b>
A. Criminal Responsibility - Between Law and Morality .....	47
B. Individual Autonomy vs. Mass Behavior.....	48
<b>Criminal Responsibility During a Mass Attack – Between Joint Criminal Enterprise and Derivative Liability</b> .....	<b>49</b>
A. The Application of the Doctrine of Joint Criminal Enterprise (JCE) .....	51
B. Derivative Liability .....	52

---

A Further Note on Israeli Case Law .....	54
Joint Responsibility – A Legal Necessity for an Extreme Reality .....	54
<b>Adapting Criminal Evidentiary Paradigms to Address Sexual Violence in Conflict Zones .....</b>	<b>55</b>
Introduction and Framing the Issue .....	55
<b>Inherent Fundamental Challenges in Conflict-Related Sexual Violence (CRSV) and Their Impact on the Pursuit of Criminal Accountability .....</b>	<b>57</b>
A.A Structure of Fundamental Challenges .....	57
B.Loss of Evidence, Intensified Silencing, and Destruction of Crime Scenes: The Unique Challenges of the Attack on October 7.....	59
<b>A Roadmap for Construction of an Appropriate Evidentiary Paradigm for CRSV and its Application to the Attacks on October 7 .....</b>	<b>60</b>
A.The Necessity of Defining a Roadmap that Attends to Evidentiary Barriers.....	60
B.Intensified Silencing of Victims and Implications for Evidentiary Strategy.....	61
C.The Shortcomings of the Conventional Paradigm and Its Inability to Capture Community Harm.....	61
D.Reflecting the Violation of Community Autonomy and the use of Evidence Stemming from the Public Nature of the Crimes .....	63
<b>An Evidentiary Model Tailored to Address Sexual Violence in Armed Conflict Contexts: Construction of a CRSV-Specific Model and Its Application to Proof of the Commission and Dimensions of Crimes of Sexual Violence in the October 7 Attack.....</b>	<b>64</b>
A.Eyewitness Testimonies.....	64
B.Testimonies of Witnesses Who Heard Sexual Violence.....	65
C. <i>Res Gestae</i> Testimonies – Real-Time or Proximate Reports by Victims of Sexual Violence .....	66
D.Circumstantial Evidence .....	67
E. Credibility Safeguards for Witness Testimonies .....	70



---

<b>Summary and Recommendations – An Adapted Evidentiary Paradigm</b>	
for Prosecuting CRSV: .....	72
Transition from a Victim-Centered Evidentiary Model to a Broader Approach: .....	72
Recognition of the Unique Nature of CRSV: .....	72
Use of a Broad Range of Admissible Evidence: .....	72
Focus on Establishment of Joint Criminal Responsibility: .....	73
Reflection of the Harm Caused to the Community:.....	73
Maintaining High Standards of Evidentiary Credibility: .....	73
<b>Conclusion</b> .....	<b>73</b>
<b>Conclusion</b> .....	<b>74</b>
Recommendations .....	76
<b>Acknowledgements</b> .....	<b>80</b>



From Screams Before Silence , courtesy of Kastina Communications

# Introduction to the Dinah Project Report

---

The Dinah Project was established to ensure recognition and justice for the victims and survivors of the monstrous attack on Israel by Hamas terrorists and their allies on October 7, 2023. This attack included widespread heinous acts of Conflict-Related Sexual Violence (CRSV), all aimed at a total dehumanization of Israelis and Israeli society.

**Our work is based on a simple yet powerful premise:**

justice can and must be achieved, whether through criminal prosecutions, civil proceedings, or international tribunals.

Once thought of as merely an inevitable part of war, international law now recognizes that CRSV is an intentional, strategic tool employed to dehumanize its direct victims and thus spread fear and degrade the group, collective, or nation. By attacking sexuality, one of the primary sources of life and a symbol of humanity's existential continuity, CRSV sends a message of death and destruction to all.



Indeed, CRSV poses complex legal and social questions that make prosecution especially difficult. On October 7, most victims were murdered; survivors and released captives may be too traumatized to come forward and testify against their abusers; and forensic evidence required for criminal convictions is difficult to obtain in crime scenes that remain war zones. This creates profound challenges for establishing accountability and achieving justice.

To overcome these obstacles and ensure that perpetrators are brought to justice, the Dinah Project has developed an innovative legal framework, while drawing from recognized and established legal doctrines, adaptation of well-accepted legal principles to mass-atrocity law.

**Two essential frameworks are introduced:**

- An evidentiary framework that organizes and categorizes all available information based on its reliability and source. This includes testimonies from survivors, eyewitnesses who saw or heard attacks in real-time, first responders, and visual evidence.
- A legal framework that acknowledges the joint responsibility of those who participated in the attack and offers a tailor-made evidence model for CRSV.

The significance of this report extends far beyond its legal import, with implications for survivors and the families of victims, societies and the international human rights community. Justice for these crimes is not merely about punishing perpetrators—it is about recognizing the profound harm inflicted upon individuals and communities, establishing historical truth, and preventing future atrocities by ensuring that such acts never again go unpunished.

**This report represents a call to action:**

to acknowledge the sexual violence that occurred on October 7 as crimes against humanity, to hold the perpetrators accountable, and to ensure that the tactical use of sexual violence by Hamas as a weapon of war receives the international condemnation and response it demands.

This report was written over an extended period and is now being published approximately one and a half years following the October 7 attack. During the intervening period, a substantial portion of the hostages have been returned—horribly, some were murdered or died in captivity. At the time of this report's publication, 50 of the hostages remain in Hamas custody in Gaza; most of these are thought not to be alive. We are not oblivious to what has happened, and is still happening, in Gaza since the attack of October 7. However, this report is concerned with an unequivocal message that stands independently and must stand independently: sexual violence during wartime cannot be acceptable, justifiable, or contingent upon context. This report constitutes a universal call to do everything possible to eradicate this horrific phenomenon.

## EXECUTIVE SUMMARY:

# The Dinah Project Report

---

## ► Overview and Purpose

The Dinah Project was established to achieve recognition and justice for victims and survivors of sexual violence during the Hamas attack on October 7, 2023, and for those taken hostage. This report represents the most comprehensive assessment to date of the sexual violence that occurred during and after the attack. It goes beyond documenting what happened to provide theoretical and practical legal frameworks for accountability and prosecution.

**Unlike previous reports which primarily focused on fact-finding, this report advances the field by**

- 1 Developing a structured evidentiary platform that organizes all available information regarding the sexual violence perpetrated on October 7 and in captivity
- 2 Creating a legal framework that addresses the unique challenges of prosecuting conflict-related sexual violence (CRSV)
- 3 Establishing principles for joint criminal responsibility in mass attacks

The report concludes that Hamas used sexual violence as a tactical weapon of war—a finding with significant implications for international accountability mechanisms, including potential designation of Hamas on the UN Secretary-General's blacklist of groups that use sexual violence as a weapon.

## ► Key Findings: The Nature and Scope of Sexual Violence

Based on extensive research and analysis, the report establishes that:

- **Sexual violence was widespread and systematic** during the October 7 attack, occurring across at least six different locations: the Nova music festival, Route 232, Nahal Oz military base, and Kibbutzim Re'im, Nir Oz, and Kfar Aza.



- **Clear patterns emerged in how the sexual violence** was perpetrated, including victims found partially or fully naked with their hands tied, often to structures like trees or poles; evidence of gang rapes followed by execution; genital mutilation; and public humiliation.
- **Sexual violence continued in captivity**, with multiple returnees reporting forced nudity, physical and verbal sexual harassment, sexual assaults, and threats of forced marriage.
- **Most victims were permanently silenced**—either murdered during or after the assaults or remain too traumatized to talk—creating unique evidentiary challenges that require a tailored, context-sensitive evidentiary model adapted to the unique challenges of CRSV.

## **Evidentiary Framework**

The Dinah Project has developed a unique platform that categorizes information based on its proximity to the incidents and its evidentiary value:

- 1 First-hand survivor testimonies:**  
Accounts from one survivor of an attempted rape on October 7 and of 15 returned hostages who experienced or witnessed sexual violence.
- 2 Eyewitness and earwitness testimonies:**  
At least 17 witnesses describing 15+ separate incidents of sexual assault, including gang rapes, rape, and mutilation.
- 3 First responder accounts:**  
Testimonies from 27 first responders describing dozens of cases, showing clear signs of sexual violence across six locations.
- 4 Forensic evidence:**  
Accounts from morgue attendants describing bodies with indicators of sexual violence, supported by photographic documentation.
- 5 Visual and audio evidence:**  
Videos, photographs, and intercepted communications showing sexual humiliation and assault.

This categorization allows investigators and prosecutors to assess the weight and reliability of each piece of evidence, creating a comprehensive picture, even in the absence of direct victim testimony.

## ▀ Legal Framework: Addressing Criminal Responsibility

The report introduces a doctrinal framework for establishing criminal responsibility in the context of mass attacks motivated by genocidal intent. When individuals join a coordinated, ideologically-driven assault aimed at destruction and dehumanization, they bear responsibility for the full range of atrocities committed as part of that assault—even if they did not personally commit each specific act or were not aware of its commission by a co-perpetrator.

This framework does not lower the standards of criminal responsibility but rather adapts established legal doctrines of joint and derivative responsibility to the unique context of mass atrocities where traditional approaches would fail to deliver justice.

## ▀ Adapting Evidentiary Paradigms for CRSV

Traditional approaches to prosecuting sexual violence rely heavily on direct victim testimony, which is often unavailable in conflict settings. They also ignore the unique aspect of CRSV, which is directed against the community as a whole. The report proposes:

- 1 **Expanding evidential sources:**  
Recognizing the probative value of eyewitness and earwitness (witnesses who heard sexual violence in real time) accounts, *res gestae* statements (contemporaneous utterances), and circumstantial evidence.
- 2 **Community harm recognition:**  
Acknowledging that CRSV targets communities, not just individuals, which should be reflected in evidentiary approaches.
- 3 **Contextual analysis:**  
Treating the broader context of the attack as evidence in itself, not merely as background.
- 4 **Established legal exceptions:**  
Using well-established exceptions to hearsay rules, such as *res gestae*, which acknowledge the reliability of statements made during traumatic events.
- 5 **Pattern recognition:**  
Identifying recurring patterns across multiple incidents to establish systematic nature and intentionality.

These adaptations maintain high evidential standards, while acknowledging the realities of how CRSV is perpetrated and documented.





## ► Key Recommendations

The report concludes with specific recommendations:

- **Recognize CRSV as a distinct category** requiring specialized evidentiary paradigms different from everyday sexual offenses.
- **Transition from a victim-centered evidentiary model** to a broader approach that accounts for the systematic silencing of victims.
- **Utilize diverse forms of admissible evidence**, including eyewitness accounts, earwitness testimonies, *res gestae* reports, and circumstantial evidence.
- **Apply joint criminal responsibility** to all participants in the attack rather than requiring direct links between individual perpetrators and specific acts and victims.
- **Reflect community harm** in evidentiary strategies to capture the broader social damage inflicted.
- **Maintain high standards of credibility** while adapting evidentiary approaches, ensuring all evidence meets rigorous legal scrutiny.

## ► Conclusion and Implications

The Dinah Project Report provides not only a comprehensive account of the sexual violence that occurred on and after October 7, but also practical frameworks for achieving accountability. It establishes that Hamas used sexual violence as a tactical weapon, as part of a genocidal scheme and with the goal of terrorizing and dehumanizing Israeli society, a finding with significant implications for international justice mechanisms.

By adapting established legal principles to address the unique challenges of CRSV, the report creates a pathway to justice for victims of the October 7 attack and potentially for victims in other conflict zones. The frameworks developed here can serve as models for addressing systematic sexual violence in various contexts where traditional approaches have fallen short. The significance of this report extends far beyond its legal import, with implications for survivors, and the families of victims, affected societies, and the international human rights community.

The report underscores that justice for these crimes is essential not only for individual victims but for affirming broader principles: that sexual violence in conflict is a serious violation of international law, that perpetrators will be held accountable, and that the international community will not allow such crimes to be committed with impunity.

# Preface

---

Over a year and a half have passed since the morning of October 7, 2023, when thousands of armed members of Hamas and other terrorist organizations launched simultaneous and coordinated attacks against civilian communities and military bases in southern Israel. On that day, more than 1,200 people—men, women, and children—were brutally murdered and many others were injured.<sup>1</sup> Before and during the attack, Hamas launched more than 500 rockets into Israel, in order, among other reasons, to mask its infiltration and to create chaos and fear.<sup>2</sup>

Under this cover, the terrorists also committed numerous acts of sexual violence. These crimes are factually detailed in this report, in which we also delineate the moral and legal challenges these crimes pose and propose an alternative paradigm for prosecution of perpetrators.

The Dinah Project was established to bring **recognition and justice** for the victims and survivors of the attack by Hamas on October 7, 2023, and for those taken into captivity on that day.

We focus on the weaponization of sexual violence against women and men in the southern part of Israel on that day. Our work is based on the premise that it is possible to attain recognition and accountability and to achieve justice in domestic criminal law, in the determination of liability in civil proceedings, and in the imposition of responsibility in international tribunals.<sup>3</sup> We further assert that documentation and historical recognition can also be reached through international reports, in which the establishment of accountability is realized.

---

<sup>1</sup>The Seven of October - The Data That Tells It All, PRIME MINISTER'S OFFICE - GOVERNMENT PRESS OFFICE (7.10.2024) (Hebrew) <https://www.gov.il/he/pages/oneyeartothemassacre071024>.

<sup>2</sup>Yoav Zeitoun, The diversion, and the opening blow of Hamas commandos: They raided 8 outposts and burned down war rooms, YNET (8.10.2023) <https://www.ynet.co.il/news/article/sjdOjOjzp>; Amos Harel, Hamas prepared for the attack for months, and achieved complete success. This is a failure on a huge scale, HAARETZ (7.10.2023) <https://www.haaretz.co.il/news/politics/2023-10-07/ty-article/.highlight/0000018b-0975-dae3-a1cb-bd7d62550000>

<sup>3</sup>Compare SARA FERRO RIBERIO & DANAÉ VAN DER STRATEN PONTHOZ, INTERNATIONAL PROTOCOL ON THE DOCUMENTATION AND INVESTIGATION OF SEXUAL VIOLENCE IN CONFLICT, 140 (2nd ed., 2017) (Hereinafter: International Protocol 2017). As explained there, the type, amount and quality of the evidence required depends on the type of documentation for which it is needed. Judicial proceedings obviously require a higher evidentiary bar than documentation for non-judicial purposes. The standard of evidence for verification and establishment of violations under non-judicial human rights investigative endeavors is “reasonable grounds to believe”; See the OHCHR Manual on Human Rights Monitoring and available at: <https://did.li/ykLlw>.



**A solid factual foundation is essential** in each of these fora. Such a foundation must stand up to relevant scrutiny by any group or institution in pursuit of justice. Once this factual foundation is established, each of these arenas requires a legal framework to meet the relevant threshold required for the establishment of accountability within its domain. To this end, we have developed doctrinal grounds for prosecution, using reliable and admissible, albeit less conventional evidence, and we supplement this evidence with evidentiary presumptions and with the doctrine of joint responsibility. Thus, we can **ensure accountability for the perpetrators**.

We also seek to **set the historical record straight: Hamas used sexual violence as a tactical weapon of war**. This report thus sets the stage for future criminal and other domestic and international proceedings against Hamas terrorists, leaders and collaborators. We hence call upon the UN Secretary General to blacklist Hamas as an organization responsible for the tactical use of sexual violence as a weapon of war.

**The Dinah Report goes beyond all previous reports that were published on the issue of sexual violence on October 7, which can be grouped into four categories:**

- Official UN fact-finding and investigative reports, which utilized UN methodology for verification of their findings.<sup>4</sup> These include the Mission Report by the Special Representative of the Secretary-General on Sexual Violence in Conflict (SRSG-SVC), issued on March 4, 2023, the first formal UN report on the sexual violence of October 7,<sup>5</sup> the findings of which were incorporated into the Secretary-General's Annual Report on Sexual Violence in Conflict, published in April 2024;<sup>6</sup> the Report by the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem and Israel (CoI), issued on June 19, 2023,<sup>7</sup> and its accompanying Conference Room Paper.<sup>8</sup>

---

<sup>4</sup>See *infra* pp. 26–8.

<sup>5</sup>OFFICE OF THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL ON SEXUAL VIOLENCE IN CONFLICT, MISSION REPORT – OFFICIAL VISIT OF THE SRSG-SVC TO ISRAEL AND THE OCCUPIED WEST BANK 29 JANUARY – 14 FEBRUARY 2024 paras. 10, 34, 41, 53 (4.3.2024) (Hereinafter: SRSG-SVC Mission Report) <https://did.li/PvdmC>.

<sup>6</sup>OFFICE OF THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL ON SEXUAL VIOLENCE IN CONFLICT, CONFLICT-RELATED SEXUAL VIOLENCE REPORT OF THE UNITED NATIONS SECRETARY-GENERAL (APRIL 2024), S/2024/292, para. 41 (Hereinafter: CRSV Report of the UNSG 2024) <https://did.li/tBWaa>.

<sup>7</sup>HUMAN RIGHTS COUNCIL, REPORT OF THE INDEPENDENT INTERNATIONAL COMMISSION OF INQUIRY ON THE OCCUPIED PALESTINIAN TERRITORY, INCLUDING EAST JERUSALEM, AND ISRAEL (14.6.2024), A/HRC/56/26 (Hereinafter: CoI Report June 2024) <https://docs.un.org/en/A/HRC/56/26>.

<sup>8</sup>HUMAN RIGHTS COUNCIL, DETAILED FINDINGS ON ATTACKS CARRIED OUT ON AND AFTER 7 OCTOBER 2023 IN ISRAEL (10.6.2024) (Hereinafter: CoI Conference Room Paper) <https://did.li/2XQrl>.

- Other investigative reports by non-official international entities, including international human rights organizations. These include reports prepared by Human Rights Watch and Amnesty, both of which conducted their investigations according to their own methodologies,<sup>9</sup> and the Roberts Report on the 7 October Attacks, recently published by the British All-Party Parliamentary Group for UK-Israel (APPG).<sup>10</sup>
- Descriptive reports prepared by Civil Society Organizations (CSO), which gathered mostly publicly available information and grouped it into typologies and categories of crimes. Reports of this type were prepared by Physicians for Human Rights (PHRI) and the Association of Rape Crisis Centers in Israel (ARCCI).<sup>11</sup>
- CSO reports describing the challenges of identification and documentation of the sexual violence that was perpetrated on October 7 and the failures of the state's response, based on interviews conducted with first responders and information gathered from state systems. Both the Israel Women's Network in conjunction with the Women and War Collective and a research team led by Prof. Yifat Bitton prepared reports of this kind.<sup>12</sup>

**This report moves this field forward. While focusing on the Israeli case, it can serve as a case study in confronting the challenges of pursuing recognition and justice for victims of CRSV everywhere. It does so by providing:**

- A comparative analysis and evaluation of all the official UN reports mentioned above, including their factual and legal conclusions and implications;





- A detailed and full account of all existing and primarily publicly available information of the sexual violence that took place on October 7 (including forensics, testimonies, and other indications);
- A systematic analysis and categorization of information according to its evidentiary value;
- Development of structural tools for documentation and analysis of available information;
- An evidentiary model tailored to address CRSV;
- A critical overview of the existing legal framework for the prosecution of CRSV that illustrates current common deficiencies;<sup>13</sup>
- Presentation of a theoretical doctrinal framework of joint responsibility;
- Establishment of legal doctrinal grounds for prosecution, suited for the prosecution of the perpetrators of the October 7 attacks and other incidents of CRSV.

---

<sup>9</sup>HUMAN RIGHTS WATCH, 'I CAN'T ERASE ALL THE BLOOD FROM MY MIND': PALESTINIAN ARMED GROUPS' OCTOBER 7 ASSAULT ON ISRAEL 62 (17.7.2024) (Hereinafter: 'I CAN'T ERASE ALL THE BLOOD FROM MY MIND') <https://did.li/dl3TYI>; AMNESTY, ISRAEL/OPT: AMNESTY INTERNATIONAL STUDY ON HAMAS ATTACKS ON OCTOBER 7, 2023 AND TREATMENT OF HOSTAGES (Dec. 2 2024) <https://did.li/el3TY>.

<sup>10</sup>APPG, 7 OCTOBER PARLIAMENTARY COMMISSION REPORT 13–14 (March 2025) (Hereinafter: APPG REPORT) <https://did.li/0BdmC>.

<sup>11</sup>See PHRI, SEXUAL & GENDER-BASED VIOLENCE AS A WEAPON OF WAR (Nov. 2023); ASSOCIATION OF RAPE CRISIS CENTERS IN ISRAEL, SILENT CRY: SEXUAL VIOLENCE CRIMES ON OCTOBER 7 (February 2024).

<sup>12</sup>SARAI AHARONI & SHIRA SHAHAM BARBIBAI, REPORT: ANALYSIS OF THE STATE OF ISRAEL'S ACTIONS IN PREPARING FOR AND DEALING WITH SEXUAL VIOLENCE IN THE OCTOBER 7 ATTACKS AND POLICY RECOMMENDATIONS (2024) (Hebrew) (Hereinafter: ANALYSIS OF THE STATE OF ISRAEL'S ACTIONS IN PREPARING FOR AND DEALING WITH SEXUAL VIOLENCE IN THE OCTOBER 7 ATTACKS AND POLICY RECOMMENDATIONS) <https://did.li/5SoOf>; CHALLENGES IN IDENTIFYING AND DOCUMENTING SEXUAL CRIMES COMMITTED DURING A TERRORIST ATTACK (Bukra, Avidan & Shaked, led by Bitton) (2024).

<sup>13</sup>While several scholars have already pointed out to the shortcomings of international criminal law's current response to the need to hold collective perpetrators criminally responsible for CRSV, they have generally focused on substantive doctrinal modes of liability, ignoring the no less critical evidentiary challenges presented in these situations. See Susana SaCouto, Leila Nadya Sadat & Patricia Viseur Sellers, Collective Criminality and Sexual Violence: Fixing a Failed Approach, 33 LJIL 207 (2020); WOMEN'S INITIATIVE FOR GENDER JUSTICE, JUDICIAL APPROACHES TO SEXUAL AND GENDER BASED CRIMES AT THE INTERNATIONAL CRIMINAL COURT: STRUCTURAL SHORTCOMINGS, CRITICAL IMPROVEMENTS AND FUTURE POSSIBILITIES OF INTERSECTIONAL JUSTICE (2023) [HTTPS://4GENDERJUSTICE.ORG/WP-CONTENT/UPLOADS/2023/11/JUDICIAL-APPROACHES-TO-SEXUAL-AND-GENDER-BASED-CRIMES-AT-THE-ICC.PDF](https://4genderjustice.org/wp-content/uploads/2023/11/JUDICIAL-APPROACHES-TO-SEXUAL-AND-GENDER-BASED-CRIMES-AT-THE-ICC.PDF).

# Methodology

---

Since October 7, a large volume of documentation has emerged, including social media posts, personal stories, traditional media interviews, testimonial recordings, and more. This body of evidence continues to grow as new details are reported. We have reviewed all of these sources, traced their origins, cross-checked data, and assessed reliability. We have examined online databases; reviewed accounts published in traditional and social media, as well as other publications—including books, magazine articles, interviews, conference presentations, and academic papers; and we have collaborated with the Edut710 Project<sup>14</sup> to identify relevant testimonies their team has collected within their testimonial initiative. Thanks to our professional connections with state authorities and civil society, we have actively pursued every lead and conducted conversations with a range of individuals in order to put the pieces together. In all cases, and especially in these conversations, we were careful to respect each person's choice and privacy, ensure informed consent, and secure permission to use the details provided.

Two caveats are pertinent here: We do not store materials in an archive, nor are we engaged in the independent collection of testimonies, both of which are being conducted by others. The police investigation, headed by the Lahav 433 Unit, is the chief official body involved in these activities. In civil society, the National Public Library is the most prominent institution involved in testimony-collection, along with the Edut710 Project.<sup>14</sup> Yet, due to the nature of the events of October 7 and the difficulties in documentation, we cannot be sure that all the information is available at this time. Worldwide experience demonstrates that further indications emerge, and new testimonies are often reported long after the events have occurred.

Our experience in criminal law and sexual violence cases was of particular value in our efforts to organize and analyze the data. No source was accepted at face value. Each piece of evidence was first scrutinized to assess its relevance to our subject matter and then analyzed for its content and evidentiary value. Each item was then recorded according to the following criteria: location (site of the incident) and time; number and gender of victims involved in a particular incident; typology of the acts perpetrated; identity of the source; type of evidence; reference; detailed content of the account; and other relevant comments. All the catalogued items were then incorporated into one large matrix.<sup>15</sup>

It is crucial to accurately and definitively determine the number of sexual assault cases for which concrete indications and evidence are available. Witness accounts presented special challenges: in order to control for duplications, it was necessary to determine that each testimony was a report of a distinct incident, and not, for example, a repeated testimony taken from a different angle or position. Thus, for instance, some of the returned



hostages reported on what they heard from others in captivity; but when we realized that these reports pertained to the same hostage who had shared her experience with a few others, we narrowed some accounts into just one line in our matrix. At the same time, as we explain below, the fact that there were multiple witnesses to the same event is valuable because it strengthens the evidentiary basis for proving that the event took place.

We have coalesced this meticulous work into a unique platform organized and classified from an evidentiary perspective. All registered items were then sorted into groups, based on their proximity to the incident they address: testimonies of survivors of sexual violence; testimonies of first-hand eyewitnesses and earwitnesses in real time; testimonies of first responders; testimonies from workers at the Shura camp (which served as the morgue); testimonies by healthcare providers and therapists. From an evidentiary perspective, the weight accorded to an item changes according to its proximity to the incident it relates to. While this may differ from one jurisdiction to another, and from one type of proceedings to another, the significance of such grouping is relevant to all legal systems. The detailed information contained in each item adds to the means to evaluate its evidentiary weight.

The purpose of this platform is to serve as a basis for future legal proceedings and investigations. These can take various forms and may occur in different venues: criminal trials held domestically; in a country that employs universal jurisdiction; in an international tribunal; civil actions brought domestically or in another country; and in a variety of domestic and official or unofficial international investigative initiatives. All of these require an evidentiary basis, but their evidentiary rules are different. Domestic criminal proceedings, for example, might require a higher credibility bar than an international tribunal, which might still be higher than that of an international investigation. Our classification and analysis allow for an informed assessment of the evidence and the indications available for each of these processes.

Based on this factual foundation, we present a legal framework that encompasses both doctrinal and evidentiary components, in order to establish accountability for the sexual violence committed on October 7, 2023, and subsequently against the hostages. This platform has also served as the underpinning for our analytical research regarding the legal basis for the prosecution of Hamas terrorists for sexual crimes committed on October 7. Our experience in criminal law and victims' representation, together with our familiarity with the prosecutorial system, allowed us to appreciate the challenges of this undertaking and to consider potential ways to overcome them. Thus, our research is both practice-oriented and fact-based.

---

<sup>14</sup>The National Library of Israel, The National Memory Database <https://www.nli.org.il/he/at-your-service/who-we-are/projects/7-october> (The National Memory Database, led by the National Library, is a broad project to document the events of October 7 and the war. Its goal is to create a reliable, accessible, and extensive database of all documentary materials, a database that will be a vital resource for us and future generations); Edut710 <https://www.edut710en.org/> (Edut 710 is one of the organizations in Israel dedicated to collecting the testimonies of those who survived or witnessed the October 7 attacks).

<sup>15</sup>Our matrix consists of over 100 analyzed data lines, mostly relating to the first hours during which most of the sexual crimes were committed.

# The Distinctiveness of CRSV and the Use of Sexual Violence as a Weapon of War

---

CRSV differs from everyday sexual violence in many aspects.<sup>16</sup> The most important distinction is that it is first and foremost directed against the community as a whole, and not solely (or even necessarily) against the individual victim. Therefore, from a strictly legal perspective, within the definition of Article 7(1)(g) of the Rome Statute, even one act of sexual violence, when perpetrated “as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack”, can constitute a crime against humanity.<sup>17</sup> It is important to note that, in this definition, the element of “widespread or systematic” refers to the nature of the overall attack and not necessarily to the acts of sexual violence committed as part of it. Thus, in order to label CRSV as a crime against humanity, there is no need to prove that the sexual assaults were systematic and premeditated.

Why, then, is it necessary to establish that the sexual assaults themselves were systematic and premeditated? These elements attest to the weaponization of the sexual violence and to its utilization as a tool of war. They distinguish between random or isolated cases of sexual



From Screams Before Silence , courtesy of Kastina Communications

---

<sup>16</sup>Fionnuala Ní Aoláin, Rethinking the Concept of Harm and Legal Categorizations of Sexual Violence During War, 1 THEORETICAL INQ. L. 307 (2000).

<sup>17</sup>Rome Statute of the International Criminal Court, 2187 UNTS 3, 7(1)(g).

<sup>18</sup>United Nations Security Council Resolution 1820 (2008) S/RES/1820.

<sup>19</sup>United Nations Security Council Resolution 1960 (2010) S/RES/1960.





assault that may have taken place within the context of a widespread or systematic attack against a civilian population and the use of sexual violence as a strategic or tactical weapon in warfare. As the 2008 UN Security Council resolution, the first to explicitly address sexual violence as a weapon of war, noted, “Sexual violence, when used or commissioned as a tactic of war in order to deliberately target civilians or as a part of a widespread or systematic attack against civilian populations” (emphasis added).<sup>18</sup> UN Security Council resolution 1960 (2010), which developed the means to combat CRSV, reiterated that description, and also referred to “widespread or systematic sexual violence in situations of armed conflict” (emphasis added).<sup>19</sup> This reflects the understanding that an occurrence of a widespread or a systematic phenomenon of sexual violence cases indicates a predisposition to use it as a weapon within the wider aim to inflict terror. This framing, in the highest operative UN normative structure, carries concrete implications, and Resolution 1960 also gives the Secretary-General the mandate to list “parties to conflict that are credibly suspected of committing or being responsible for patterns of rape and other forms of sexual violence” in an annex to the SG’s annual reports on the matter.<sup>20</sup>

Despite this forceful language, there is no formal legal definition of tactical weaponization of sexual violence. However, in line with these Security Council resolutions, the accepted scholarly description views sexual assaults committed as part of an attack for the purpose of instilling fear and terror within the enemy, as tactical usage of sexual violence as a weapon of war. Since in most cases it would be impossible to find evidence of orders to use sexual assault as part of the attack, and since it can be assumed that most perpetrators would deny any prior planning of these acts, it is necessary to seek other means to indicate the premeditated usage of sexual violence. Thus, when a number of sexual assaults that were committed as part of an attack exhibit similarities or common elements indicative of a pattern, they are taken as demonstration of the systematic and intentional usage of sexual violence as a weapon of war.

As explained in the next section, the findings of the official UN reports clearly establish the basis for labeling the crimes committed by Hamas on October 7, 2023, as crimes against humanity under Article 7(1)(g) of the Rome Statute. These findings also suffice to establish the element of systematization required in order to consider Hamas responsible for the tactical usage of sexual violence as a weapon of war. Our own unique evidentiary platform supplies substantial support to these conclusions, as it allows for cross-checking of all information and leads to the identification of the similarities and cross-cutting patterns that substantiate these conclusions. The use of pattern-based evidence has emerged as a key strategy in addressing the legal and evidentiary challenges in prosecuting conflict-related sexual violence (CRSV).<sup>21</sup>

---

<sup>20</sup>Ibid. See also annex to ‘I CAN’T ERASE ALL THE BLOOD FROM MY MIND’, supra note 9.

<sup>21</sup>See Xabier Agirre Aranburu, *Sexual Violence beyond Reasonable Doubt: Using Pattern Evidence and Analysis for International Case*, 23 LEIDEN J. OF INT’LL. 609, 609–627 (2010).

# Official Reports on CRSV of October 7

---

Before presenting our own evidentiary framework and legal analysis, it is important to clarify the factual ground that has already been officially established with respect to the sexual violence and gender atrocities committed on October 7 and in captivity. The UN reports and ICC materials analyzed in this section follow stringent criteria for verified data, particularly in the context of conflict-related sexual violence (CRSV) or any other human rights violations. These criteria are designed to ensure that the information collected, analyzed, and reported is credible, reliable, and trustworthy, while at the same time safeguards the dignity and rights of survivors.<sup>22</sup> As the highest authoritative bodies on the international arena, they play a critical role in setting the historical record straight, and therefore merit a separate analysis, pointing to their factual findings as well as to their legal outcomes.

## **I. The SRSR Report of March 2024**

On November 8, 2023, the Office of the Under-Secretary-General of UN, Special Representative on Sexual Violence in Conflict, Ms. Pramila Patten, received an official invitation from the Government of Israel through the Permanent Mission of Israel to the UN, to “first-handedly hear and see the testimonies and evidence of these heinous acts [of conflict-related sexual violence].” On November 27, 2023, the Office of the SRSR-SVC responded positively to the invitation and laid out parameters for the visit. The visit took place between January 29 and February 14. Unlike visits conducted by the SRSR in other places, in this visit she was accompanied by an expanded technical team of nine highly qualified experts from various UN entities, including staff from the office of the SRSR-SVC and specialists trained in safe and ethical interviewing of survivors/victims and witnesses of sexual violence crimes; a forensic pathologist; and a digital and open-source information analyst.<sup>23</sup>

The mission report was published on March 4, 2024, marking the first report on the sexual violence of October 7 by a formal UN entity. The mission team concluded that there were

---

<sup>22</sup>For a detailed guidance on international criminal investigations on sexual violence, see International Protocol 2017, *supra* note 3; For ICC’s guidance on investigations of sexual and gender-based crimes, see International Criminal Court, Office of the Prosecutor, “Policy paper on sexual and gender-based crimes” (The Hague, 2014). See also OHCHR Guidance Note on Integrating a Gender Perspective into Human Rights Investigations. Available at: <https://did.li/JOzgT>.

<sup>23</sup>SRSR-SVC Mission Report, *supra* note 5, at para. 2.

<sup>24</sup>The Nova music festival site and its surroundings, Road 232 and kibbutz Re’im.



reasonable grounds to believe that conflict-related sexual violence occurred during the October 7 attacks in multiple locations across Gaza periphery, including rape and gang rape in at least three locations,<sup>24</sup> and that there is clear and convincing evidence that hostages in Gaza were subjected to sexual assaults that were probably still ongoing.

The SRSG clarified that the mission team could not ascertain whether sexual violence was used as a tactic of war or in a widespread and/or systematic manner, due to the limited time at their disposal and because this determination would require a comprehensive, full-fledged investigation.

Nevertheless, the report contains sufficient findings to establish the systematic nature of the sexual violence. Furthermore, it provides enough information to determine that the acts of sexual violence committed by Hamas on October 7 constitute **crimes against humanity**.<sup>25</sup> According to the report, “across multiple locations of the Gaza periphery, a pattern of victims, mostly women, found fully or partially naked from the waist down, with their hands tied behind their back and/or tied to structures such as trees and poles, and shot”;<sup>26</sup> “At the Nova music festival and its surroundings, there are reasonable grounds to believe that multiple incidents of sexual violence took place and victims were subjected to rape and/or gang rape and then killed”; and “There are further accounts of individuals who witnessed at least two incidents of rape of corpses of women”.<sup>27</sup> These are clear findings of a pattern.

The report refers to “a coordinated attack by Hamas joined by other armed groups”, and states that “[t]he complexity and modus operandi of the attacks, which seem to have occurred over three cumulative waves, appear to demonstrate a significant level of planning, coordination and detailed prior knowledge of the targets selected.” Clearly, then, the rapes and the gang rapes that took place on October 7 were committed as part of a “widespread or systematic attack directed against any civilian population, with knowledge of the attack.” As noted, according to the Rome Statute, when rape is committed “as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack”, it constitutes a **crime against humanity**.

In addition to documenting the sexual crimes that took place on October 7, the mission was also presented with evidence relating to sexual violence against hostages while in captivity. It found that “there is clear and convincing evidence that hostages in Gaza were subjected to sexual assaults that were probably still on-going”.<sup>28</sup>

The SRSG’s findings were incorporated into the Secretary-General’s Annual Report on Sexual Violence in Conflict, published in April 2024.<sup>29</sup>

---

<sup>25</sup>See Ruth Halperin-Kaddari, October 7 Sexual Violence as Crimes Against Humanity, THE MINERVA CENTER FOR HUMAN RIGHTS, Mar. 24, 2024 <https://en.minervacenter.huji.ac.il/october-7th-sexual-violence-crimes-against-humanity>.

<sup>26</sup>SRSG-SVC Mission Report, supra note 5, at para 43.

<sup>27</sup>Id., at para. 58.

<sup>28</sup>Id., at para. 71.

<sup>29</sup>CRSV Report of the UNSG 2024, supra note 6, at para. 41.

## II. The CoI Report of June 2024

The Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel (CoI/Commission), which was established by the UN Human Rights Council in Geneva in May 2021, announced on October 10, 2023, that it intended to investigate the events of October 7, 2023, and subsequent events.<sup>30</sup> It handled its investigation without the cooperation of the Government of Israel and did not conduct an in-situ visit.<sup>31</sup>

The CoI presented its report, which related to the period between October 7 and December 31, 2023, to the Human Rights Council on June 19, 2024. As the report itself explains, it should be read in conjunction with the conference room background paper that presented the Commission's detailed factual findings.<sup>32</sup>

### The CoI report complements the SRSG report and expands upon it in three crucial aspects:

- It affirms that sexual violence occurred in **six different locations**:  
“The Commission found that acts of sexual violence were committed on 7 October in Israel, including at the Nova festival, on Road 232, at Nahal Oz military base and kibbutzim Re'im, Nir Oz and Kfar Aza.”<sup>33</sup>
- It clearly **attributes acts of sexual violence to Hamas**:  
“The Commission concludes that members of the military wing of Hamas and Palestinian armed groups targeted women, including by willful killings, abductions, and physical, mental and sexual abuse.”<sup>34</sup>
- It concludes that these acts of sexual violence **were not sporadic, but part of a pattern**:  
“The Commission identified patterns indicative of sexual violence in several locations and concludes that Israeli women were disproportionately subjected to these crimes. The attack on 7 October enabled perpetrators to commit SGBV and this violence was not isolated but perpetrated in similar ways in several locations and by multiple Palestinian perpetrators.”<sup>35</sup>

Notably, this report failed to address critical evidence of the ongoing SGBV in captivity, which was already available in open sources, such as media interviews given by returned hostages, including testimony by Amit Soussana who shared her own experience of sexual abuse in captivity as early as March 2024.<sup>36</sup> In its September report, the Commission addressed this issue in only one paragraph, stating that “[t]he Commission received credible information about some hostages being subjected to sexual and gender-based violence while in captivity, including sexualized torture and abuse of men and women when they were held in tunnels. One released female hostage reported that she had been raped in an apartment.”<sup>37</sup>

---

<sup>30</sup>Commission of Inquiry collecting evidence of war crimes committed by all sides in Israel and Occupied Palestinian Territories since 7 October 2023, UN (Oct. 10 2023) <https://www.ohchr.org/en/press-releases/2023/10/commission-inquiry-collecting-evidence-war-crimes-committed-all-sides-israel>.



### III. ICC Arrest Warrant of November 2024

On 21 November 2024, Pre-Trial Chamber I of the International Criminal Court, in its current composition for the Situation in the State of Palestine, unanimously issued a warrant of arrest for Mr. Mohammed Diab Ibrahim Al-Masri, commonly known as ‘Deif’, for alleged crimes against humanity and war crimes committed on the territory of the State of Israel and the State of Palestine from at least 7 October 2023.<sup>38</sup>

#### The arrest warrant stated, *inter alia*:

“The Chamber further found that, while they were held captive in Gaza, some hostages, predominantly women, were subjected to sexual and gender-based violence, including forced penetration, forced nudity, and humiliating and degrading treatment. On the basis of the material presented, the Chamber found reasonable grounds to believe that the crimes of torture as a crime against humanity and war crime, rape and other forms of sexual violence as crimes against humanity and war crimes, cruel treatment as a war crime, and outrages upon personal dignity as a war crime were committed against these persons during the relevant period.”

This is the first official acknowledgment that the sexual violence to which hostages were subjected included forced penetration.



<sup>31</sup>For an account of the conduct of the gathering of information and the methodology employed see Col Report June 2024, *supra* note 7, at paras. 3–5.

<sup>32</sup>*Ibid.* See Col Conference Room Paper, *supra* note 8.

<sup>33</sup>Col Report June 2024, *supra* note 7, at para. 77.

<sup>34</sup>*Id.*, at para. 94.

<sup>35</sup>*Id.*, at para. 95.

<sup>36</sup>Israeli Hostage Says She Was Sexually Assaulted and Tortured in Gaza, THE NEW YORK TIMES (Mar. 26, 2024) <https://did.li/ofj6q>; Kidnapped Amit Soussana gives chilling testimony: I was sexually assaulted in Hamas captivity, YNET (26.3.2024) (Hebrew) <https://www.ynet.co.il/news/article/bjmnjolla> (Hereinafter: Amit Soussana’s testimony). It should be noted that more information from other returned hostages was already available at that stage; The COI report relied on open sources and media coverage for other issues, see, e.g., Col Report June 2024, *supra* note 7, at para. 35 (referencing an article in Ha’aretz newspaper).

<sup>37</sup>Col Report June 2024, *supra* note 7, at para. 82.

<sup>38</sup>Situation in the State of Palestine: ICC Pre-Trial Chamber I issues warrant of arrest for Mohammed Diab Ibrahim Al-Masri (Deif), ICC (21.11.2024) <https://did.li/jwux5>.

# The Evidentiary Framework

---

Sexual violence, particularly when weaponized during conflict, may present unique challenges, as occurred in the attack on 7 October. These challenges necessitate the use of non-traditional evidentiary methods. In order to deal successfully with such unconventional types of information, we have designed a special platform for the organization and categorization of all available verified information from an evidentiary perspective according to its evidentiary value.

A note on terminology: Overall, when survivors' testimonies are unavailable due to the criminal acts of the perpetrators themselves, more weight should be given to *res gestae* and other less conventional yet admissible evidence in order to establish a factual basis. This type of evidence should be accorded more weight in these cases. Furthermore, situations of CRSV often involve distinct types of sexual violence other than rape, such as genital mutilation. As we explain later, the repeated targeting of the genitalia indicates that the tactical use of sexual violence as a weapon was very much in the terrorists' minds.

**We have grouped the available information into several categories:**

- 1 Information provided by first-hand survivors;
- 2 Information provided by first-hand eyewitnesses and earwitnesses in real time;
- 3 *Res gestae* accounts provided by witnesses, including returnees from captivity;
- 4 Information provided by first responders;
- 5 Information provided by workers at the Shura military base, which served as the morgue;
- 6 Information provided by healthcare workers and therapists;
- 7 Other types of information (e.g., photos and footage).



In presenting our findings, we first report on the aggregated outcomes of each of the evidentiary categories, both in terms of the quantity (i.e., how many pieces of information fall into the specific category) and the content. We then describe the common themes that emerge from an overall review of all the categories.

It is important to note once again, that some witnesses' testimony could appear in more than one category. Thus, a returned hostage may describe what she herself experienced; speak about what she herself has seen; and/or report on what she heard from another hostage. Each of these entries is a distinct and separate account.

## ► **First Group: Information Provided by First-Hand Survivors**

We have purposefully refrained from mentioning the names of these survivors. Many of the returned hostages gave open media interviews and their testimonies have thus become public knowledge. Nevertheless, since we know that this document will continue to serve as a central resource long into the future, we have chosen to maintain their anonymity.

1. **A: Attempted rape; Sexual Assault.** Occurred at the Nova music festival site on October 7.<sup>39</sup>
2. **B: Forced Sexual Act; Sexual Abuse; Forced Nudity.** All were experienced while in captivity in Gaza.<sup>40</sup>
3. **C: Forced Nudity; Verbal and Physical Sexual Harassment; Threats of Rape** (in the form of forced marriage). All were experienced during the kidnapping and while in captivity in Gaza.<sup>41</sup>
4. **D: Verbal and Physical Sexual Harassment; Threats of Rape** (in the form of forced marriage). All experienced while in captivity in Gaza.<sup>42</sup>

---

<sup>39</sup>A., a female survivor of the Nova music festival, spoke to members of the Dinah Project, on May 4, 2025. Her testimony is corroborated by D., who was part of the rescue team, and by another confidential source.

<sup>40</sup>SCREAMS BEFORE SILENCE (Anat Stalinsky dir., created by Sheryl Sandberg, Apr. 26, 2024) (Hereinafter: SCREAMS BEFORE SILENCE); Amit Soussana in Her First Recorded Testimony: 'I Knew the Terrorist Was Plotting Something, That Something Bad Was About to Happen', YNET (Apr. 3, 2024) (Hebrew); Ben Shani, Amit Soussana in a one-time testimony: 'I gave it everything I had; I thought I was going to die', N12 (Jan. 28, 2025) (Hebrew) (The survivor described how the terrorist who held her captive forced her to shower, and after that, he beat and sexually assaulted her at gunpoint. She was held in captivity, chained by an iron ankle chain, for three weeks. The terrorist repeatedly asked her about the timing of her menstrual cycle).

<sup>41</sup>UN Women for all women, Mia Schem shares horrific moments from being a hostage in Gaza, INSTAGRAM (Oct. 20, 2024), <https://did.li/kwux5>; Ulpan Shisi, Mia Schem speaks for the First Time, CHANNEL 12 (Dec. 28, 2023) (Hebrew); Daniel Adelson & Itamar Eichner, Mia Schem a survivor of captivity: 'I was in a cage with five young women; they are still there, abused and exploited', YNET (Oct. 29, 2024) (Hebrew).

<sup>42</sup>Yonatan Riger, Agam Gets an Arabic Name: 'You're Getting Married in Gaza', N12 (Dec. 22, 2023) (Hebrew); Screams Before Silence, supra note 40.

5. E: **Forced Nudity**. Experienced while in captivity in Gaza.<sup>43</sup>
6. F: **Forced nudity**; Parading of a Naked Child; **Sexual Humiliation**.<sup>44</sup>
7. G: **Threats of Rape** (in the form of forced marriage). Experienced while in captivity in Gaza.<sup>45</sup>
8. H: **Threats of Rape** (in the form of forced marriage). Experienced while in captivity in Gaza.<sup>46</sup>
9. I: **Physical Sexual Assault**. Experienced while in captivity in Gaza.<sup>47</sup>
10. J: **Verbal Sexual Harassment**. Experienced while in captivity in Gaza.<sup>48</sup>
11. K: **Verbal Sexual Harassment**. Experienced while in captivity in Gaza.<sup>49</sup>
12. L: **Physical Sexual Abuse; Forced Nudity; Threats of Rape** (in the form of forced marriage). Experienced during the kidnapping and while in captivity in Gaza.<sup>50</sup>
13. M: **Forced Nudity; Verbal Sexual Abuse; Stripping of Gender Identity; Sexual Humiliation**. Experienced while in captivity in Gaza, by a male hostage survivor.<sup>51</sup>
14. N: **Forced Nudity; Sexual Humiliation**. Experienced while in captivity in Gaza, by a male hostage survivor.<sup>52</sup>
15. O: **Sexual Assault; Threats of Rape** (in the form of forced marriage). Experienced by a teen female hostage during the kidnapping and while in captivity in Gaza.<sup>53</sup>
16. P: **Physical Sexual Assault; Verbal Sexual Harassment**. Experienced while in captivity in Gaza.<sup>54</sup>

---

<sup>43</sup>Itamar Eisner, Mia Regev to UN Ambassadors: " Hamas Terrorists Tore Off My Clothes, Took Away My Identity", Ynet (Jan. 31, 2024) (Hebrew); (The survivor reported that Hamas terrorists stripped her of her clothing and deprived her of her identity and sense of self).

<sup>44</sup>In Captivity: A Conversation with Hagar Brodutch, EHAD BE-YOM (Lee Naim, Aug. 14, 2024) (Hebrew).

<sup>45</sup>Michal Peilan, The Harrowing Testimony of Noga, Who Returned from Hamas Captivity: 'The Terrorist Gave Me a Ring, Told Me to Marry Him in Gaza and Have His Children', N12 (Apr. 25, 2024) (Hebrew).

<sup>46</sup>Ido Solomon, 'The Terrorists Asked Me to Turn on the Camera; I Thought They Were Killing Me Live', N12 (Aug. 9, 2024) (Hebrew).

<sup>47</sup>Hila Korach, In Captivity in Gaza, with a 6-Year-Old Girl: 'I Told Emilia, 'We Are Going to Die'', CHANNEL 13 (Jan. 6, 2024) (Hebrew); Esti Perez Ben-Ami, Daniel Aloni: 'They tried to convince me to leave Emilia in Gaza', KAN 11 (Dec. 4 2024) (Hebrew).

<sup>48</sup>Tal Ariel Yakir, Only When I Returned to Israel Did I Realize – the Person Who Spoke to Me in the Tunnel Was Sinwar, Israel Hayom (July 11 2024) (Hebrew); Michal Peilan, A Year Since Their Return | Sapir Cohen in a New Testimony on Captivity – and the Longing for Her Partner Sasha, Still in Gaza, N12 (Nov. 26, 2024) (Hebrew).

<sup>49</sup>Shira Rubin, A Former Israeli Hostage Recalls the Brutality of Hamas Captivity, WASH. POST (June 1, 2024); Sira Wertheim, Channel 13 Broadcasted a Report Featuring a Hostage Without Her Consent, Walla (May 30, 2024) (Hebrew). (The survivor reported that the terrorists demanded she undress, subjected her to physical violence, and conducted invasive body inspections under the pretense of searching for IDF radio chips. Despite this, she resisted their demands, ultimately causing them to relent on some occasions).

<sup>50</sup>Natan Odenheimer & Isabel Kershner, She Was Released. Now She's Campaigning for Her Partner Still in Gaza, NEW YORK TIMES (Mar. 25, 2025), [https://www.nytimes.com/2025/03/25/world/middleeast/israeli-hostage-gaza-campaign.html?unlocked\\_article\\_code=1.6k4.g995.mkgkCHsFOwva&smid=url-share](https://www.nytimes.com/2025/03/25/world/middleeast/israeli-hostage-gaza-campaign.html?unlocked_article_code=1.6k4.g995.mkgkCHsFOwva&smid=url-share).





## A. GENERAL CONTEXT OF THIS GROUP

When examining this group of first-hand survivors, one should bear in mind that the vast majority of those who were sexually assaulted were among the 1,166 who were murdered in the attack and therefore silenced forever.<sup>55</sup> Many of those who did survive are likely to be too traumatized to be able to recount their experience. It was more than seventeen months after the attack that a survivor from the Nova music festival was able to recount her experience to us.<sup>56</sup> We have information about survivors of direct sexual assaults on October 7, but this information falls under professional confidentiality ethical codes. In this regard, we recommend finding a means to allow limited access to such information in a manner that safeguards and guarantees the privacy and the rights of the victims, so that justice can be done.

It is not surprising that all but one of the testimonies forming this group comes from returned hostages. Based on experience with survivors of everyday sexual violence and other survivors of CRSV, it is reasonable to assume that further facts may still come to light in the future. Given the process of healing from traumatic experience, we can expect that more information will surface in the future.

The sexual assaults that took part on October 7 and the ongoing sexual abuse of the hostages should be viewed as a continuum, spanning from the sexual atrocities committed in the Gaza Envelope, through the sexual abuse and humiliation during the abduction, and extending to the captivity, where sexual abuse was committed in the context of total powerlessness, vulnerability and dependence. Thus, since the taking of the hostages was a premeditated next-stage of the attack,<sup>57</sup> everything that happened in captivity should be regarded as part of the attack. Therefore, even though these first-hand survivors' testimonies do not relate to October 7 itself, they are relevant for assessing Hamas' tactical use of sexual violence as a weapon of war. This has also been the experience in other conflict zones where CRSV occurred, including Nigeria and Iraq.<sup>58</sup>

---

<sup>51</sup>Leslie Stahl and Aliza Hazzan, Freed Israeli hostages Yarden Bibas, Keith Siegel, Tal Shoham describe horrors of being held captive by Hamas, 60 MINUTES CBS NEWS (Mar. 30, 2025); also available at Israeli hostages bond through horror of Hamas captivity, YOUTUBE (last visited Apr. 17, 2025) <https://did.li/c5Qrl>; Main Edition, CHANNEL 12 (May 16, 2025) (Hebrew) [https://www.mako.co.il/news-n12\\_magazine/6a6d777d11485910/Article-71797c5b1b3d691027.htm?utm\\_source=AndroidNews12&utm\\_medium=Share](https://www.mako.co.il/news-n12_magazine/6a6d777d11485910/Article-71797c5b1b3d691027.htm?utm_source=AndroidNews12&utm_medium=Share).

<sup>52</sup>Main Edition, CHANNEL 12 (Apr. 1, 2025) (Hebrew).

<sup>53</sup>Interview given at the closing event of the TEEN SPIRIT program, organized by the Civil Public Diplomacy Directorate (May 6, 2025), [https://www.mako.co.il/news-military/f239747af17c5910/Article-8442cade8c5a691026.htm&utm\\_source=Whatsapp&utm\\_medium=Share](https://www.mako.co.il/news-military/f239747af17c5910/Article-8442cade8c5a691026.htm&utm_source=Whatsapp&utm_medium=Share).

<sup>54</sup>Ouvda, Now Ori, Channel 12 (May 28, 2025) (Hebrew).

<sup>55</sup>The victims and the casualties of the terror attack and the war in Gaza, YNET, <https://www.ynet.co.il/news/category/51693> (last visited Feb. 1, 2025) (Hebrew).

<sup>56</sup>As indicated above, supra note 38, we were aware of her experience from the first responder who treated her after she was rescued, and from another confidential source.

<sup>57</sup>Report in the U.S.: 'Hamas planned to reach the West Bank on October 7', N12 (Nov. 12 2023) (Hebrew).

<sup>58</sup>See for example REPORT OF THE SECRETARY-GENERAL CONFLICT-RELATED SEXUAL VIOLENCE (23.3.2015) <https://docs.un.org/en/S/2015/203>; REPORT OF THE SECRETARY-GENERAL CONFLICT-RELATED SEXUAL VIOLENCE (29.3.2022) <https://did.li/GYdmC>.

## B. GROUP SUMMARY

Of the 15 returned hostages in this first evidentiary group one reported the most extreme form of sexual assault, which was preceded by sexual abuse, verbal and physical sexual harassment. The sexual abuse she endured also included forced nudity, an experience also reported by six other hostages. Almost all returned hostages who chose to speak publicly reported verbal and some physical sexual harassment, including unwanted physical contact in private parts. Six of them reported threats of forced marriage, which, if realized, would constitute rape under the guise of marriage. The particularities of the sexual violence must be understood within the context of the ongoing physical violence, which was at times extreme and was experienced by most of the hostages,<sup>59</sup> as well as the deprivation of basic necessities and dehumanization.<sup>60</sup>

There are also two returned male hostages in this group, who were released in January and in February of 2025, after about 500 days in captivity. Both reported particular means of sexual humiliation, which included forced nudity and physical abuse when naked.<sup>61</sup> One also recounted the shaving of all body hair, including from intimate body parts,<sup>62</sup> which is a known form of CRSV intended to strip the victim of his or her sexual and gender identity.<sup>63</sup>

## C. OVERALL THEMES

The threat of forcibly marrying the female hostages is a recurring theme. The intention to marry off female hostages, which was reported by six of the returned hostages, reveals a plan to engage in an act of raping and possibly impregnating them. This practice also serves the purpose of harming the enemy's community by destroying its communal ties and procreative capacity. Bearing in mind that forced marriage as abuse of captive women was a recurring theme in other conflict zones where sexual violence was used as a weapon, such as Nigeria and Iraq,<sup>64</sup> the significance of this information is clear.

---

<sup>59</sup>See, Amit Soussana's testimony, supra note 36.

<sup>60</sup>N12, Noa Argamani tells her story for the first time, INSTAGRAM (17.1.2025) <https://did.li/vfj6q>.

<sup>61</sup>Keith Siegel, in the 60 MINUTES CBS NEWS, supra note 51; Ilana Gritzewsky, quoted in Natan Odenheimer & Isabel Kershner, supra note 50.

<sup>62</sup>Keith Siegel, in the 60 MINUTES CBS NEWS, supra note 51.

<sup>63</sup>Fionnuala Ní Aoláin, Supra note 15.

<sup>64</sup>For information regarding ISIL see Eurojust, The Prosecution at National Level of Sexual and Gender-Based Violence (SGBV) Committed by the Islamic State in Iraq and the Levant (ISIL), 1 July 2017, p. 15, <http://www.eurojust.europa.eu/publication/prosecution-national-level-sexual-and-gender-based-violence-sgbv-committed-islamic>; for information regarding Al-Shabaab see United Nations, Security Council, Conflict-Related Sexual Violence: Report of the Secretary-General, S/2022/272 (22 June 2023), para. 15, <http://www.undocs.org/S/2023/413>.

<sup>65</sup>For a broader explanation of the *res gestae* rule, its rationale and its role in our context, see *infra* p. 66.



## ► 2<sup>nd</sup> Group: Information Provided by Eyewitnesses and Earwitnesses in Real Time

### A. GENERAL CONTEXT OF THIS GROUP

Since the vast majority of the victims are no longer alive or are still engaged in the long process of recovering from trauma and are unable to describe what they experienced, the testimonies by those who saw or heard sexual violence taking place serve as a main source of information. Some testimonies entail people who saw the attacks while in hiding, others heard sounds and voices, including screams of women begging for help or begging the perpetrator to stop, that leave no doubt as to what went on, while yet others include testimonies of people who heard individuals who were with the victims begging them to let the woman go. It is important to recognize that these witnesses are themselves survivors, whether of the attack of October 7 or of the captivity, and they, too, are struggling to overcome the trauma of exposure to horrific sights while their own lives were under peril. This explains the gradual process in which these testimonies have accumulated. Here, too, it is to be expected that more such testimonies will surface as time goes by.

While these testimonies are not first-hand testimonies of victims, they do serve as direct sources of evidence with a high degree of reliability. Many of them go beyond the categories that are often referred to as circumstantial evidence. The *res gestae* witnesses, who report hearing from first-hand survivors of sexual assaults immediately after they were attacked, form an important sub-group of the witnesses in real time.<sup>65</sup>

In this category of testimonies of witnesses in real time, as well as in the next category of testimonies of first responders, most of the information is derived from publicly available, open-sourced information. We have also included information received directly from witnesses with whom we engaged within the framework of our professional work.



## B. GROUP SUMMARY

We exercised particular caution when gathering and evaluating the information derived from these witnesses, bearing in mind the possibility that two or more of them may have witnessed the same incident. We have therefore included only such accounts which were detailed enough to allow for detailed comparisons in order to rule out redundancies.


**At the time of writing of this report, this group consists of seventeen witnesses, addressing at least fifteen separate cases of sexual assaults of various types whose testimonies recount the following incidents:<sup>66</sup>**

- Five witnesses reported four or five separate cases of gang rapes;<sup>67</sup> two witnesses reported one possible case of gang rape.<sup>68</sup> Thus, in total, there are at least four accounts of gang rapes, and possibly six such accounts, all occurring during the October 7 attack
- Seven witnesses reported at least eight other separate cases of rape or severe sexual assaults, some in captivity<sup>69</sup>
- Five witnesses reported three or four separate cases of sexual assaults, some in captivity<sup>70</sup>
- Three witnesses reported three separate cases of mutilation.<sup>71</sup>

It is important to note that one of the hallmarks of CRSV is the public nature of the sexual attack, which is purposefully done out in the open in front of spectators in order to instill yet more fear and terror.

---

<sup>66</sup>Yovel Sharvit - Kobi Lieberman, "In the Face of Such Horrific Crimes, Silence Is Not an Option", Ynet (Mar. 14, 2024) (Hebrew); Maya Aidan, "We Heard the Rape Here": The Survivor from the Mefalsim's Curve Returns to the Road of Death, Channel 13 (June 6, 2024) (Hebrew); Yoni Saadon - Association of Rape Crisis Centers in Israel, Sexual Violence Crimes on October 7 (Feb. 2024) (Hebrew); Christina Lamb, First Hamas Fighters Raped Her. Then They Shot Her in the Head, The Times (Dec. 2, 2023); Raz Cohen - Testimonies About Hamas Rapes on "Black Saturday", "Zman Emet", Season 7, Kan 11, December 14, 2023 (Hebrew); Ron Farger - Association of Rape Crisis Centers in Israel, Sexual Violence Crimes on October 7 (Feb. 2024) (Hebrew); Sapir - Jeffrey Gettleman, Anat Schwartz & Adam Sella, 'Screams Without Words': How Hamas Weaponized Sexual Violence on Oct. 7, The New York Times, December 28, 2023 (updated Mar. 25, 2024); Yura Karol - Jeffrey Gettleman, Anat Schwartz & Adam Sella, 'Screams Without Words': How Hamas Weaponized Sexual Violence on Oct. 7, The New York Times, December 28, 2023 (updated Mar. 25, 2024); Tali Binner - Screams Before Silence (Anat Stalinsky dir., created by Sheryl Sandberg, Apr. 26, 2024); Gad and Dan Lieberman - Testimonies About Hamas Rapes on "Black Saturday", "Zman Emet", Season 7, Kan 11, December 14, 2023 (Hebrew); Aviva Siegel - Aviva Siegel, The Hostage Who Saw Everything, Speaks for the First Time, "Ulpan Shishi", Channel 12, February 16, 2024 (Hebrew); In Captivity: A Conversation with Aviva Siegel, "Ehad Be-yom" (Lee Naim, Oct. 30, 2024) (Hebrew); Agam Goldstein - Almog - Yonatan Riger, Agam Gets an Arabic Name: "You're Getting Married in Gaza", N12 (Dec. 22, 2023) (Hebrew); Screams Before Silence, supra note 38; Chen Almog-Goldstein - in two separate interviews: In Captivity: A Conversation with Chen Goldstein, "Ehad Be-yom" (Elad Simchayof, July 20, 2024) (Hebrew); and an interview with Esti Perez (KAN 11 RESHSET BET, Dec. 11, 2023) (Hebrew); Moran Stella Yanai - Shiran Rubin, A former Israeli hostage recalls the brutality of Hamas captivity, supra note 47; Yaniv Ban-Haim - Alon Penzel, TESTIMONIES WITHOUT BOUNDARIES: ISRAEL: OCTOBER 7 2023 151-152 (Niv Books, 2024). In addition to these generally published testimonies, two members of the Dinah Project have heard accounts from three other witnesses whose personal details remain confidential (two male soldiers and one female soldier), these accounts are included in the evidentiary matrix.



From Screams Before Silence , courtesy of Kastina Communications

#### **As to the location of these reported cases:**

- Nine reports related to the area of the Nova music festival.
- Two reports related to Nachal Oz military base.
- One report related to route 232.
- Four reports related to incidents occurring in captivity.

### **C. OVERALL THEMES**

In most of cases, the rape victims were murdered during or immediately following the assault. There was more than one report of continuous sexual assault after the victim was no longer alive. The accounts of mutilations are corroborated by the descriptions of the first and second responders, as presented below. Descriptions of the extreme degree of mutilation are repeated in these accounts, adding to the evidence of a pattern, particularly when we note that these atrocities took place in a relatively short period of time.

---

<sup>67</sup>Yovel Sharvit, Yoni Saadon, Raz Cohen, Ron Farger, Sapir. Upon careful analysis of the testimonial details, we concluded it is possible that Yoni Saadon and Sapir had witnessed the same incident, from their different hiding places. Hence our conclusion that five witnesses reported four or five separate cases of gang rapes.

<sup>68</sup>Gad and Dan Lieberman. The two brothers reported hearing a group of men talking in Arabic and the screams of several girls crying for help and begging them to stop. However, since from their hiding place they could only hear and not see, we classified this as a possible case of gang rape.

<sup>69</sup>Bar; Ron Farger; A Nachal Oz military base survivor (personal details classified, information received confidentially); Yura Karol; Tali Binner; Chen Goldstein-Almog; Moran Stella Yanai.

<sup>70</sup>Gad and Dan Lieberman; A, spoke to members of the Dinah Project; Aviva Siegel; Agam Goldstein-Almog; Yaniv Ben-Haim. One of these reports included possible desecration of a female body.

<sup>71</sup>A Nachal Oz military base survivor (personal details classified, information received confidentially); Sapir; Bar. Two of them described cutting off victims' breasts.

## **3rd Group: Information Provided by First Responders**

### **A. GENERAL CONTEXT OF THIS GROUP**

This group consists of three subgroups: first-line security forces, including paramedics, who came to rescue and found themselves recovering the bodies of the deceased; Disaster Victim Identification Organization (ZAKA) volunteers who are trained in collection of bodies in emergency situations; and civilians who heroically took it upon themselves to help in whatever way they could.

We obtained information from 15 different individuals (4 members of the security forces, 4 first responders, 7 civilians), either in direct conversations or through review of their publicly available oral or written accounts, which we then cross-checked with other existing information. Testimonies of several first responders were also meticulously detailed in the Col's background paper to their June 2024 report, corresponding to the information that we accumulated on our platform. Added to them are 12 (unnamed) first responders who were interviewed for the New York Times investigative report.<sup>72</sup>

### **B. SUMMARY OF THE FINDINGS**

Overall, 27 different individuals recounted at least 30 different accounts from at least 6 different locations; while it is impossible to assign a precise number, it is clear that these amount to a few dozen cases, all of which exhibited indications of sexual assaults, including the following descriptions:

- Bodies with objects inserted into their private parts<sup>73</sup>
- Bodies with signs of shooting or other mutilations in the area of the genitalia<sup>74</sup>
- Bodies of naked women cuffed onto trees<sup>75</sup>
- Bodies of half-naked or fully naked women, some lying with their genitalia exposed and legs spread<sup>76</sup>

---

<sup>72</sup>We are aware of the criticism this reporting received. However, the criticism did not address the specificities of their descriptions, and the totality of all the evidence corroborates this investigative report.

<sup>73</sup>There were at least three such cases. Haim Otmazgin, a commander of ZAKA unit in charge of data and bodies collection at the National Rescue Unit, in a conversation with Dinah Project members, February 5, 2024, recounted a case of a female body found in Kibbutz Be'eri with a metal object inserted in her vagina. The case of the body in Be'eri was recounted by several other first responders, and is corroborated by photos. A second case of a male body found in one of the kibbutzim tied and naked with a metal object inserted in his groin was described by Nathan Kennig, a ZAKA volunteer, in Alon Penzel, TESTIMONIES WITHOUT BOUNDARIES: ISRAEL: OCTOBER 7 2023 101–102 (Niv Books, 2024); A third case of a body of a male with an object inserted in his anus, is described in the Col Conference Room Paper, supra note 8, at para. 154.

<sup>74</sup>Simcha Greinman and Yinon Rivlin – Jeffrey Gettleman, Anat Schwartz & Adam Sella, 'Screams Without Words': How Hamas Weaponized Sexual Violence on Oct. 7, THE NEW YORK TIMES, Dec. 28, 2023 (updated Mar. 25, 2024); Haim Otmazgin, *ibid.*; D., a security force paramedic, in a conversation with Dinah Project members, April 9, 2025.

<sup>75</sup>D. *ibid.*; Nathan Kennig, supra note 73, at 90–91; see also the SRSG–SVC Mission Report, supra note 5, at para. 13 & 58.



#### As to the location of the reported cases:

- Most of the reports in this group, at least thirteen, related to the area of the Nova music festival
- Five reports related to Kibbutz Be'eri
- Three reports related to Kibbutz Alumim
- One report related to Route 232
- One report related to Kibbutz Nachal Oz
- One report related to Kibbutz Re'im

### C. OVERALL THEMES

These harrowing accounts are supported by footage and photographs taken by some of the first responders as they came upon the scene as well observations by the Col.<sup>77</sup> Note that we purposefully refrained from quantifying the number of bodies that fitted one or more of the above descriptions. The recovery of the bodies under fire and the ongoing fighting made it impossible to keep track. But all of the first responders who were at the Nova festival site described the same scenes: Dozens of female bodies naked or partially naked from the waist down, many of them bleeding from the genitalia as a result of gunshots. Both the SRSG and the Col reports pointed to these similarities, which are indicative of a pattern.<sup>78</sup> The careful scrutiny of all the information in this category suggests that the three separate cases of rape by insertion of objects into the vagina or the anus also form a pattern.



From Screams Before Silence , courtesy of Kastina Communications

<sup>76</sup>Jamal - Jeffrey Gettleman, Anat Schwartz, & Adam Sella, 'Screams Without Words': How Hamas Weaponized Sexual Violence on Oct. 7, THE NEW YORK TIMES, Dec. 28, 2023 (updated Mar. 25, 2024); Ami Baruchi - EDUT 710, <https://www.youtube.com/watch?v=zeMuOtvDRkk&t=777s> (last visited on Apr. 17, 2025); Rami Shmuel, Nova Festival producer, in a conversation with Dinah Project member, February 5, 2024; D., *ibid*.

<sup>77</sup>"The patterns in these witness accounts are consistent with digital footage collected and preserved by the Commission, including four victims found undressed from the waist down, as well as four cases where the bodies of victims were displayed partially undressed while being mistreated." See Col Conference Room Paper, *supra* note 8, at para. 135.

<sup>78</sup>See *supra* pp. 26–8.

## **4<sup>th</sup> Group: Information Provided by Second Responders - Attendants at the Shura Morgue (Military Base Identification Station)**

This group consists of testimonies by second responders, who attended to the bodies at the Shura military base, which had been turned into a morgue to which all recovered bodies were transferred for identification and preparation for burial. Testimonies of these second responders were published in the media.<sup>79</sup> We have also obtained direct information from two of them.<sup>80</sup> Some of that information is supported by photos of bodies that were taken in the military section of the morgue.<sup>81</sup> All the accounts depict similar descriptions of bodies – mostly of females – completely or partially undressed and/or bleeding from the lower parts, some with clear signs of shots in the genitalia area, and/or with other signs of mutilation, including burning, in their sexual organs.

Overall, the accounts from the Shura morgue corroborate the findings from the previous evidentiary categories and provide support to the indication of a pattern of sexual violence combined with mutilation.

## **5<sup>th</sup> Group: Healthcare Providers and Therapists**

This group consists of healthcare providers and therapists who treated or are still treating survivors from the attack in Israel as well as returned hostages, and have heard directly from them of their experiences.

There are indications that these accounts include information regarding abuse, torture, and sexual violence, including rape and gang rape. However, for ethical reasons and reasons of confidentiality, this information cannot be shared.<sup>82</sup>

---

<sup>79</sup>See for example Atrocities by Hamas terrorists continue to be exposed: "Attempt to 'erase' women's faces by shooting, bodies found trapped", YNET (1.2.2024) <https://www.ynet.co.il/news/article/rkrtpo96>; Hadar Gil-Ad, The volunteer who cared for the bodies of the soldiers: "The initial shock was from the quantity, the second from the cruelty", YNET (8.3.2024) <https://www.ynet.co.il/news/article/yokra13832737> (Published interviews, including the words of Sheri Mendes, a reservist who cared for the bodies brought to Camp Shura).

<sup>80</sup>Reports of Commander in the female reserve unit at Camp Shura and a staff member in the Unit, in conversations with Dihah Project member, on various dates in February 2024.

<sup>81</sup>We have been shown these photos at the Shura Morgue Military Section. These photos have been examined by the SRSG's team, as described in the SRSG-SVC Mission Report, supra note 5, at para. 20.

<sup>82</sup>For reasons of confidentiality, we cannot disclose the sources of this information.

<sup>83</sup>This account is based on visual information recovered by the IDF, from open sources and other captured items.

<sup>84</sup>Chris Nesi & Dorian Geiger, Shani Louk, symbol of Oct. 7 Hamas savagery, found dead in Rafah along with bodies of 2 other Israeli hostages, NEW YORK POST (17.5.2024) <https://nypost.com/2024/05/17/world-news/idf-recovers-three-dead-hostages-in-gaza-including-shani-louk-whose-half-naked-body-was-paraded-by-hamas-on-oct-7/>.

<sup>85</sup>HUMAN RIGHTS WATCH, PALESTINIAN ARMED GROUPS' OCTOBER 7 ASSAULT ON ISRAEL, supra note 9; APPG REPORT, supra note 10.

<sup>86</sup>This information was disclosed as part of an investigative journalism documentary by Guy Rolnick on Kan Channel (Hebrew): <https://www.kan.org.il/content/kan/kan-11/p-685602/s1/688258/> (minute 52:20).





## **D 6<sup>th</sup> Group: Visuals and Other Evidence**

As was noted by all previous reports and accounts, a large body of digital materials, mostly visuals, recorded the atrocities of the October 7 attack as they occurred in real time. Much of it was published on various social media platforms, but some of these materials – mostly those recovered from Gaza – remain confidential. Within that large body of information are also numerous items depicting sexual humiliation and assault. These include the following: forced partial or full nudity, sometimes accompanied by public display; sexual humiliation by various acts of violence (e.g. kicking, jumping over, stomping) directed at the genitalia or the buttocks; possible mutilation of the genitalia.<sup>83</sup> Prominent among those is the footage depicting the kidnapping of the body of Shani Louk, a Nova Festival victim. Louk's dead body was seen thrown onto the back of a van and paraded in Gaza, almost fully naked, surrounded by cheering terrorists.<sup>84</sup> Similar content was posted on Telegram, depicting the desecration of bodies of partially naked male hostages, including stomping on their genitalia.<sup>85</sup>

A large amount of the visual materials posted on social networks on or immediately after October 7 was later removed, due to some platforms' rules regarding graphic content. Meta has referred to thousands of files that have been removed, and YouTube reported having removed 85,000 files containing offensive items.<sup>86</sup>

We have already mentioned the existence of footage and photographs depicting the atrocities of October 7 after the fact, including those relating to sexual violence. A large number of videos and photos were taken by first responders, as noted in previous reports.<sup>87</sup> Some of them were presented in various fora and were available for the Dinah Project members to view. They all formed what the Patten Report described as “a pattern of undressing and restraining of victims [which] may be indicative of some forms of sexual violence.”<sup>88</sup> In addition, full body photographs were taken at the military section of the Shura morgue, which also reveal several cases of gun shots into the genitalia.<sup>89</sup>

In addition to these visuals, the IDF has also released a number of audio files of phone conversations intercepted by IDF intelligence. Among them was an astounding call between a Hamas terrorist (an UNRWA worker) and his officer. Returning to Gaza after having participated in the attack, the terrorist reports about the ‘sabaya’ that the terrorists brought with them back to Gaza, referring to her as a “pedigree mare”.<sup>90</sup> The term ‘sabaya’ means a female captive, and can also denote sexual slavery, as was used in the context of the sexual enslavement of Yazidi women and girls by the Islamic State terrorist organization in Iraq.<sup>91</sup>

---

<sup>87</sup>SRSG–SVC Mission Report, supra note 5; APPG REPORT, supra note 10, at 13–14.

<sup>88</sup>SRSG–SVC Mission Report, supra note 5.

<sup>89</sup>See supra note 81.

<sup>90</sup>For the actual recording of the conversation, see inside this news report in Hebrew: <https://did.li/HHWaa>. For the conversation and its analysis, including an explanation of the term ‘sabaya’, see here: <https://did.li/f5Qrl>.

<sup>91</sup>Yaniv Voller, The Sabaya: How the Advocates of Palestine Erased the Sexual Enslavement of the Yazidis in Order to Deny the Rape of Jewish Women, TABLET (Aug. 2, 2024) <https://did.li/wfj6q>.



From Screams Before Silence, courtesy of Kastina Communications

# The Boundaries of Criminal Responsibilities

---

October 7 and Genocidal Mass Attack: Principles of Guilt, Joint and Derivative Responsibility, and Mass Behavior

## ► Introduction

Shortly after the events of October 7, Israeli police opened an investigation, along with allied investigations from the Israeli Security Agency (Shin Bet), to procure concrete evidentiary basis against the terrorists who participated in the atrocities of that day. These investigations were guided by numerous indications, which had surfaced in the very first days after the attack, that the terrorists had indeed committed severe sexual crimes.<sup>92</sup>

---

<sup>92</sup>Alon Hachmon, The unit that was given responsibility for investigating all crimes in the October 7 envelope, MAARIV (4.1.2024) (Hebrew) <https://www.maariv.co.il/news/law/article-1065268>; Itzik Saban, Approximately 200,000 media items: This is how the crimes of the Nuhba terrorists are handled, ISRAEL HAYOM (4.1.2024) (Hebrew) <https://www.israelhayom.co.il/news/local/article/15050337>.



Yet despite the long period of time that has elapsed, at the time of the writing of this report the investigation remains ongoing, no conclusions have been reached and no decisions regarding continued actions have been published.

There can be no doubt that the attacks of October 7, 2023, were unprecedented in many respects—in their scale, the multiplicity of attack sites, the number of victims, and the extreme brutality of the acts committed. These circumstances present significant legal and evidentiary challenges, stemming from the fact that classical doctrines have yet to develop the tools necessary to deal with the phenomena of mass atrocities.

Redrawing the roadmap for action necessitates creation of a paradigm aligned with the nature, scale, and dimensions of the events in order to form the foundation for a different legal framework. This does not mean the creation of legal principles *ex nihilo*. On the contrary: we maintain that existing, recognized and established legal doctrines can be applied to the unique aspects of this attack and its underlying motivations and provide a solid and appropriate framework for addressing these complex legal questions.

This report focuses entirely on the extensive sexual violence that was part of the atrocities committed by Hamas's Nukhba (elite fighting) forces during the attack. At the same time, there can be no doubt that legal insights regarding the terrorists' responsibility for these crimes are relevant and applicable to other offenses committed during the attack, particularly where similar legal challenges arise.

## **► The Legal and Strategic Challenge**

The challenge in this matter is two-fold, legal and strategic. In view of the wave of denial emanating from the international community, which combines with the legal complexities that characterize this event, it is of the utmost importance to acknowledge and understand the nature of these heinous sexual crimes and to bring their perpetrators to justice, in order to ensure accountability and responsibility and prevent impunity.

Under international law, including the 1998 Rome Statute, sexual crimes committed during national conflicts have been defined as war crimes and crimes against humanity since the late 20th century. Furthermore, as previously noted,<sup>93</sup> sexual crimes committed in the context of armed conflict have unique characteristics, including scale, motivation, and/or extreme brutality, that distinguish them from typical sexual offenses committed in everyday contexts. International criminal law acknowledges these unique characteristics by specifically defining rape and other forms of sexual violence when perpetrated as part of a widespread or systematic attack directed against any civilian population as crime against humanity.<sup>94</sup>

---

<sup>93</sup>See *supra* pp. 24–5.

<sup>94</sup>Rome Statute of the International Criminal Court, art.7(1)(g).

Application of the insights derived from our work in the Dinah Project with regard to the unique characteristics of sexual violence in armed conflict and the particular elements manifested in the October 7 events to existing legal frameworks has brought us to a clear conclusion: all terrorists who participated in the attack bear full responsibility for all acts of sexual violence committed during the attack—especially the commanders of the terrorists in various locations (that is, "field commanders," who are also sometimes referred to in the media as "company and battalion commanders").

## ► **Joint Responsibility in Mass Attacks with Genocidal Intent**

In this section we will present the legal framework we have developed, in which we assert that in cases of mass attacks aimed at destruction, annihilation and genocide, **it is legally and morally proper to attribute responsibility for all the crimes committed during the attack** to all individuals who participated in the attack. Each participant entered a situation in which they acted collectively with others to achieve the objectives of this attack and joint responsibility for all crimes committed thus constitutes a necessary legal conclusion.

### **A. MOTIVATIONAL GENOCIDAL INDOCTRINATION**

To understand our legal argument regarding establishment of the responsibility of the Hamas terrorists who stormed Israeli communities, the Nova festival area and IDF bases, it is crucial to first outline the indoctrination that underpinned the attack and guided its execution.

Analysis of the ideology that motivated Hamas operatives carries clear legal significance. While some aspects of the attack are as yet undisclosed or under investigation, whether due to intelligence considerations or the scope of the investigation itself, sufficient information is already available to point to the ideological foundation of the attack and the ideas that fueled it. As we will see, this ideology is strikingly similar to Nazi ideology.

From all available sources, it is evident that the attackers were motivated by an extreme ideology based on explicit genocidal intent and fundamentally driven by a complete and utter dehumanization of the Jewish people. Hamas inculcated its operatives with deeply antisemitic doctrines, and these directly influenced the nature of the crimes committed during the attack and each participant's high level of awareness of the implications of these crimes. It stands to reason that indoctrination to demonize Jews and Israelis facilitated the removal of any moral restraints among the Nukhba as they carried out their "holy war" against Jews. This analysis constitutes the foundation of the legal framework we present.



## B. SOURCES OF INDOCTRINATION

The ideological foundation of Hamas is deeply rooted in its 1988 Charter, which merges radical Islamist doctrine with elements of traditional European and Nazi antisemitism. The charter contains references to religious texts that portray Jews as eternal enemies of Islam, together with classic conspiracy theories that depict Jews as responsible for many of the world's ills, including explicit mention of The Protocols of the Elders of Zion, a notorious antisemitic forgery widely used in Nazi propaganda. Jews are depicted not only as adversaries of the Palestinians but also as a global subversive force that seeks to control politics, finance and the media. The charter underscores the religious obligation of jihad against Jews, including a call for Muslims to actively hunt down and kill Jews wherever they may be ("O Muslim, O servant of Allah, there is a Jew behind me, come and kill him." – Article 7).<sup>95</sup> This ideology, which views the struggle as an existential and ideological battle against Jews, Zionism, and the State of Israel, thus serves as justification for acts of terrorism against Israeli civilians and Jews everywhere.<sup>96</sup>

Following the attack on October 7, significant information emerged regarding the preparation for the assault, including explicit intent to commit genocide while categorically negating the humanity of Israeli civilians. According to a publication by the IDF Spokesperson, on February 5, 2024,<sup>97</sup> during its operations in Khan Yunis, the IDF discovered a book of A-Shura Council Religious Rulings that had been distributed to Hamas terrorists prior to the attack. Among its many provisions, this book clearly states that no difference should be made between men, women, elderly, or children: It is permitted to kill them all or to take them as live hostages. Similarly, a fatwa (religious ruling) issued in the name of senior Islamic scholars declared that "every soldier and settler from the Zionist entity is a legitimate target anywhere in Muslim lands, in Palestine and beyond".<sup>98</sup>

Troops also found a book compiling jihadist religious rulings, which dictated that due to military necessity, previously forbidden actions were now permissible. One ruling explicitly stated that it was not prohibited to take female soldiers hostage, touch them if necessary, or even strip hostages of their clothing.<sup>99</sup>

---

<sup>95</sup>It should be noted that in 2017, Hamas presented a political document that does not annul the treaty and does not change its principles, including the denial of the right of self-determination of the Jewish people in Israel. As part of the document, Hamas expressed willingness to establish a Palestinian state with temporary borders, but it does not renounce the goal of achieving full sovereignty over all of the territory of Israel, and therefore the destruction of Israel.

<sup>96</sup>Esther Webman, The Challenge of Assessing Arab/Islamic Antisemitism, 46(5) MIDDLE EASTERN STUD. 677 (2010); Meir Litvak, The Islamization of the Palestinian-Israeli Conflict: The Case of Hamas, 34(1) MIDDLE EASTERN STUD. 148 (1998).

<sup>97</sup>B. Nisani, According to the Shura Council's Halacha rulings: 'Everyone is allowed to be attacked', IDF spokesman in Arabic, Lt. Col. Avichai Edrei, revealed the book of religious rulings of the Hamas A-Shura Council, which permits terrorists to attack everyone – including children, women and the elderly, KIKAR HASHABAT (5.2.2024) (Hebrew); Michael Milstein, Between Nazism and Jihad: Hamas' Genocide Simply Enjoys Good Public Relations, YNET (5.5.2024) (Hebrew).

<sup>98</sup>Itamar Eichner, The religious ruling issued by Hamas' religious leaders: 'Every Zionist soldier and settler – his blood is permissible', YNET (25.10.2023) (Hebrew).

<sup>99</sup>Sagi Polka, The Mental Preparation and Shaping of the Spirit of Hamas' Military Wing Operatives to Carry out Jihad, MAARACHOT (25.2.2024) <https://www.maarachot.idf.il/28592> (Hebrew).

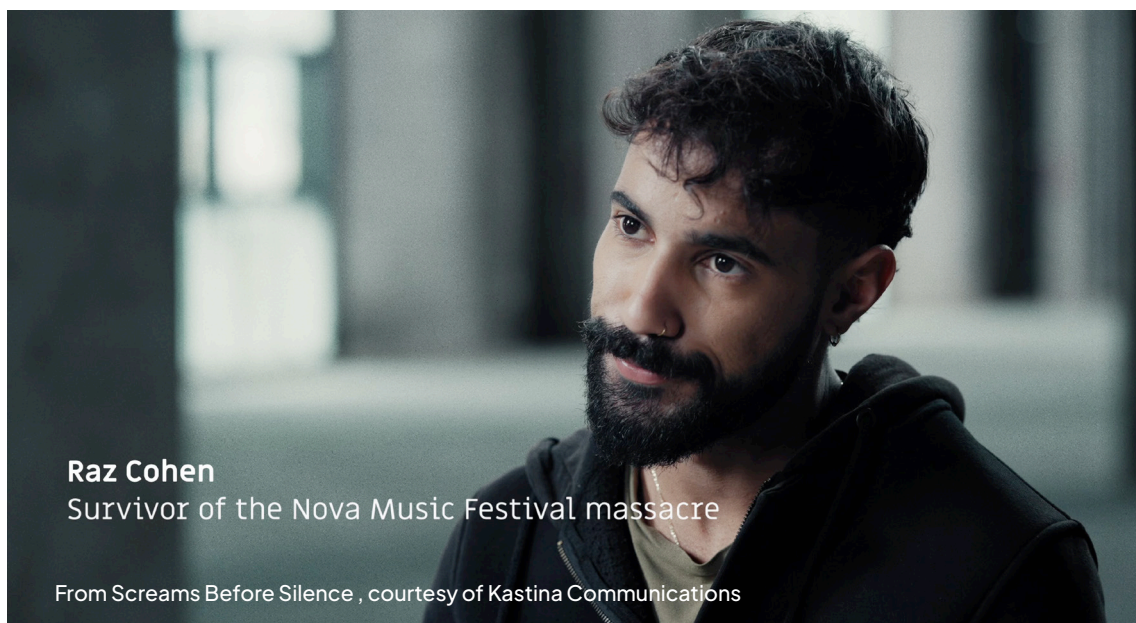
## The boundaries of criminal responsibilities

The documents reveal that the attack was deliberately planned to target civilians. Preparations for the assault included detailed training for breaching safe rooms, taking hostages, stripping them, and threatening to kill them as part of negotiation tactics. They further point to the deeply antisemitic worldview, driven by a radical Islamic ideology characteristic of extremist groups such as ISIS and Al-Qaeda.<sup>100</sup>

Research conducted by the Meir Amit Intelligence and Terrorism Information Center found that documents recovered by IDF forces in the Gaza Strip, located in the possession of Hamas operatives who took place in the October 7 attack, establishes that the Hamas leadership instructed its operatives to act with extreme brutality against Jews, soldiers and civilians alike, justifying these actions in the name of Islam. Thus, members of the Nukhba unit were instructed to carry out deliberate and systematic acts of terrorism against the civilian population of Israel. Sexual violence has long been recognized by the international community as a strategic operational component used by certain terrorist organizations to exert control, instill fear, and dismantle the social fabric of targeted communities, and has been labeled by the United Nations Security Council a tactic of terrorism.<sup>101</sup> Under Israeli law too, the Counter-Terrorism Law enables the classification of sexual violence offenses committed with nationalistic, ideological, or religious motives as acts of terrorism.<sup>102</sup>

Therefore, the conclusion is that individuals who after being indoctrinated choose to participate in violent, organized, and brutal assaults aimed at terrorizing a civilian population knowingly take part in an operation in which acts of sexual violence are neither incidental nor isolated; they are in fact an inherent and foreseeable part of the terror attack.

The indoctrination described above demonstrates the psychological and ideological conditioning that shaped the mental state of the terrorists. This ideological underpinning



<sup>100</sup>The Intelligence and Terrorism Information Center named after Major General Meir Amit, Seized Looted Materials Indicate that Hamas Planned in Advance to Act Brutally Against Jews, Kidnapping Civilians and Harming Them (19.1.2024), <https://did.li/Ue3TY>.



enabled the indiscriminate acts of genocide and mass sexual violence committed on October 7; it must therefore be recognized in legal proceedings as the foundation of joint criminal responsibility.

## **► Mass Assault under Indoctrination in Genocide and Crimes against Humanity: Adjusting the Boundaries of Joint Responsibility**

The fact that the October 7 attack was rooted in Hamas's ideological indoctrination directly impacts on the assessment of the responsibility of its participants.

### **A. CRIMINAL RESPONSIBILITY - BETWEEN LAW AND MORALITY**

Modern criminal law is based on the principle of culpability, according to which individuals bear criminal responsibility only when they choose to violate societal values out of free will and with full awareness of the implications of their actions. This is a fundamental principle in Israeli law, grounded in deontological morality, which views an individual as an autonomous being who is capable of distinguishing between right and wrong and bears the consequences of his or her actions. A person who chooses to violate societal values is deserving of condemnation, conviction, and punishment, which “repays [them] in kind.”<sup>103</sup> Consequently, as a general rule, individuals bear criminal responsibility that is commensurate with the degree of their culpability and for the specific acts in which they participated.

This classical legal paradigm is designed to address “ordinary” crimes—offenses committed by individuals or small groups. However, the attack on October 7 was an extraordinary event that occurred under circumstances of ideological indoctrination of genocide, mass behavior, inflicting terror and dehumanization of the victims. These circumstances pose particular legal questions regarding the assessment of the responsibility of each individual as well as the manner in which criminal law should be adapted to crimes committed by a violent and coordinated mob, in which individual responsibility becomes blurred.<sup>104</sup> Israeli law has never faced a challenge of this type.

---

<sup>101</sup>U.N SEC. COUNCIL COUNTER-TERRORISM COMMITTEE EXECUTIVE DIRECTORATE (CTED), Towards Meaningful Accountability for Sexual and Gender-Based Violence Linked to Terrorism, 11, 8–9 (2023), <https://shorturl.at/kC53W> (Hereinafter: CTED report).

<sup>102</sup>The Counter-Terrorism Law, 2556–2016 (Unofficial Translation).

<sup>103</sup>Mordechai Kremnitzer, Justified Deviations from the Requirement of “Mens Rea”, 13 MECHAKRI MISHPAT 109 (1996) (Hebrew) (Kant and Hegel are the fathers of retributive morality, from which the conceptual basis of the retributive justification for imposing criminal responsibility derives); Hadar Dancig-Rosenberg, The arrangement of imposing responsibility for a dragged offense – reflections on guilt, proportionality and a different balancing formula, a deontological analysis following *CrimA 4424/98 Silgado v. State of Israel*, in DAVID WEINER'S BOOK 689 (2009).

<sup>104</sup>Mordechai Kremnitzer, The Criminal Law Executioner – Outlines of His Character, 1 PLILIM 65, 72 (1990) (Hebrew). In this article, Prof. Kremnitzer insists, among other things, that the usual concepts of criminal responsibility do not always fit “criminal” phenomena such as war crimes. In these circumstances, he undertakes to look at things in an expansive way, stemming from the uniqueness of the situation.

In other words, we argue that given the unique circumstances of the attack on October 7, it is legally justified to hold each individual participant accountable not only for their own actions but also for the offenses committed by others within the collective group to which they belonged. A collective mob attack should be answered by a model of atrocity criminal law that will attribute to all participants responsibility for all the crimes committed.

## **B. INDIVIDUAL AUTONOMY VS. MASS BEHAVIOR**

Psychological and sociological research have extensively documented that when individuals are immersed in a group, their sense of personal autonomy diminishes, and they tend to derive legitimacy from the actions of others. Violent groups, especially those operating according to a genocidal ideology, create an “alternative moral” framework, in which conventional norms are abandoned, and the foundational principles of human society disintegrate.

A discussion of this issue can be found in the dissenting opinion of Justice Dalia Dorner in the Azizian case,<sup>105</sup> in which the question of individual responsibility in mob violence was raised. Although the riot in that case was minor and entirely unrelated to the events of October 7, the legal discussion of mob or mass psychology is relevant here. Dorner’s discussion of her decision pertains to the psychology of crowds and how becoming part of a group influences an individual’s decisions and behaviors and relates to the groundbreaking works of Gustave Le Bon and Sigmund Freud. Dorner notes, for example, that psychologist and sociologist Le Bon defines the crowd as a “blind force” and explains that when an individual becomes part of a group, their sense of belonging leads to an overwhelming feeling of invincibility. This feeling causes them to relinquish basic instincts that they would not have abandoned had they been acting alone. This leads to the abandonment of all restraints and results in more violent and aggressive behavior than the individual would have exhibited outside of this particular form of group. Under such circumstances, mutual influence and contagion among individuals leads them to sacrifice personal interests for collective interests, even if this interest contradicts otherwise natural human behavior.<sup>106</sup> Freud, she adds, offered a similar perspective and argued that the crowd is impulsive, erratic, and violent, resulting in impulses that can, depending on the circumstances, lead to either noble and heroic behavior or to cruel and dangerous actions.<sup>107</sup>

With regard to the question of attribution of responsibility to those terrorists who participated in the attack on October 7, we propose a broader perspective, predicated on the assertion that the conscious decision to join a violent horde that lacks any moral restraint is, in and of itself, enough to attribute responsibility to the individual, due to the overall set

---

<sup>105</sup>CrimA 807/99 State of Israel v. Azizian 53(5) PD 747(1999) (Isr.).

<sup>106</sup>GUSTAVE LE BON THE PSYCHOLOGY OF CROWDS (F. Alcan ed., 1921).

<sup>107</sup>SIGMUND FREUD GROUP PSYCHOLOGY AND ANALYSIS OF EGO (1995). It should be noted that on the other hand, the scholar Hans Kelsen believed that the crowd is not a separate entity and different from the individuals that make it up, but rather there is a mutual influence of the individuals within the crowd, one on the other, while the autonomy of will remains intact. That is, the individuals are responsible for their actions even when they are part of the same crowd. See HANS KELSEN DER SOZIOLOGISCHE UND DER JURISTISCHE STAATSBEGRIFF – KRITISCHE UNTERSUCHUNG DES VERHÄLTNISSSES VON STAAT UND RECHT (1922).





of crimes committed by that horde. Furthermore, the crimes committed by the horde are consistent with the ideology and indoctrination that each of the individuals who make up that horde were exposed to and influenced by.

Our proposal is based on the presence of both intent and cognizance, as derived from collective crowd psychology, and on the unique nature of CRSV as crimes directed against a collective or a community, as previously discussed. We maintain that this type of crime departs from the conventional paradigm that focuses on the individual and should be recognized as a distinct category within criminal law that pertains to both perpetrators and victims. Unlike standard criminal doctrine, according to this distinct category, crimes are committed by a crowd, mob or horde as a collective, which influences the actions of each individual who operates within its framework. Likewise, the individual victims of these crimes symbolically represent the collective enemy of that group. Recognizing this context is key to resolving the evidentiary challenges posed by traditional criminal law, which struggles to accommodate this form of crime.

Departing from conventional evidentiary requirements and adopting evidentiary presumptions are justified in light of the ideological and practical context in which these crimes are committed. We will address this matter in detail separately.<sup>108</sup>

## ► **Criminal Responsibility During a Mass Attack – Between Joint Criminal Enterprise and Derivative Liability**

**Unlike previous reports which primarily focused on fact-finding, this report advances the field by:**

- 1 Joint Criminal Enterprise (JCE) –**  
This principle imposes criminal liability on those who commit an offense jointly with others and were cognizant of the implications of their actions and their contribution to the crime.
- 2 Derivative Liability –**  
This principle holds accomplices accountable for additional crimes committed during the collective action, even if they did not individually commit them,<sup>109</sup> provided that the additional crime was foreseeable to a reasonable person,<sup>110</sup> and that it bears a substantive link to the execution of the original crime.<sup>111</sup>

---

<sup>108</sup>See *infra* pp. 55–73.

<sup>109</sup>The doctrine of derivative liability of partners, enshrined in Section 34A(a)(1) of the Israeli Penal Law, 1977, is an arrangement that deviates from the normal case of attributing criminal liability, both in terms of the conduct principle and the blame principle. There are different arrangements for derivative liability of partners in different legal systems.

<sup>110</sup>In other words, this is liability due to negligence. Incidentally, when the accomplice to the offense was aware of the possibility of a different or additional offense occurring, then according to the Supreme Court ruling, this is not derivative liability, and liability must be attributed to him according to partnership law. See *CrimA 4389/93 Mordechai v. State of Israel* 50(3) PD 239 (1996) (Isr.).

<sup>111</sup>Both in terms of promoting performance and in terms of performance itself.

## The boundaries of criminal responsibilities

We argue that due to the unique characteristics of the October 7 attacks, which were rooted in indoctrination and conditioning for genocide and terrorizing, each of these legal avenues independently enables attribution of responsibility to all terrorists who participated in the attacks and to all crimes committed during the course of the attack, including sexual violence.

Below, we briefly summarize the key aspects of these legal doctrines in order to shed light on the manner in which responsibility should be attributed to all terrorists for all crimes committed. Our legal analysis follows the customary international law doctrine of joint criminal enterprise (JCE) developed by the ad hoc special tribunals of ICTY and ICTR, especially JCE III, which was successfully used by those tribunals to convict perpetrators of CRSV, by allowing liability to attach if perpetrators assume the risk that foreseeable crimes will occur.<sup>112</sup>



---

<sup>112</sup> For a comprehensive analysis of the customary basis of JCE III and the jurisprudential precedents of the ICTY and ICTR, compared to the restrictive approach of the ICC on the issue of joint criminal responsibility, see SaCouto et al., supra note 13.

<sup>113</sup> The internal division of roles among all those involved is of no importance, provided that each of them is aware of the essence of the joint activity and the possibility of harming the protected value underlying the offense, in conjunction with some physical contribution.

<sup>114</sup> See Dancig-Rosenberg, supra note 103, at 692–693. The deviation from fulfilling all the requirements of the factual basis of the offense results in "compensation" in the requirement of guilt – that is, the existence of the mental element in each and every one of the partners.

<sup>115</sup> CrimA 11131/02 Yusupov v. State of Israel 58(3) PD 917, 929 (2004) (Isr.). This is why the court refrained from convicting Marwan Barghouti, who was the commander of Fatah and Tanzim in the West Bank, of involvement in various attacks, except for four in which it was proven that he knew of the intention to carry them out "in the sense of awareness of the intention to commit a specific offense with a tangible purpose." The court ruled that he could not be charged with the blanket offense of aiding and abetting murder for each and every attack attributed to him, simply because of his general awareness that his men were carrying out attacks using weapons and funds that he had secured for them. The court also ruled that he could not be charged with the joint commission of all the attacks attributed to him, as the prosecution had to prove "that the defendant is connected in one way or another to a specific offense – both in the factual basis of the offense and in its mental basis." See CrimC (DC TA) 1158/02 State of Israel v. Marwan Barghouti 98 (20.5.2004) (Isr.).



## A. THE APPLICATION OF THE DOCTRINE OF JOINT CRIMINAL ENTERPRISE (JCE)

Based on the classical JCE doctrine, it is appropriate and justified to hold all Nukhba terrorists accountable for all crimes committed during the attack.

A typical case of JCE involves multiple individuals, each of whom possesses the required mental element (*mens rea*), who converge to carry out an illegal act.<sup>113</sup> Under Israeli criminal law, the prevailing interpretation requires that a perpetrator be aware of a “concrete purpose”—that is, a specific and foreseeable risk that is likely to materialize during the collective action.<sup>114</sup> Mere awareness of a general willingness to commit a crime is insufficient.<sup>115</sup> This interpretation has already been subject to criticism, as, in some cases, this requirement produces morally and legally problematic outcomes.<sup>116</sup> We agree with this critique and argue that in exceptional cases, a different perspective is warranted to prevent an unreasonable outcome in which accountability is absent precisely in the most severe cases.<sup>117</sup>

This reasoning is particularly compelling in the case of the October 7 attack. In a genocidal assault such as October 7, the law must adapt in order to address those mass crimes orchestrated through organized planning which were inherently aimed at totally dehumanizing and terrorizing the targeted population. The surrounding circumstances and context transform the abstract risk (i.e., the risk that severe crimes will occur against life, bodily integrity, and liberty, without specific knowledge of which exact crimes will take place) into a concrete risk (i.e., the risk that every crime constituting genocide or crimes against humanity will indeed be committed).

In this context, it should be stressed again that unlike everyday sexual violence, CRSV aims at terrorizing and destroying the community of the immediate victim, using this type of violence as a weapon among other weapons used for achieving the same goal. That is to say, the perpetrators, who set out to dehumanize and terrorize the Israeli community, were ready to use any effective and relevant weapon available to them. CRSV, so prevalent in conflict areas, was inherently among the weapons of whose existence they were aware. As we see in the chapter dealing with the evidence, they made extensive use of it.

Cognizance of a ‘concrete criminal act’ should be interpreted as awareness of (and consent to) any grave act of violence committed within this unprecedented context that was aimed at fulfilling the objectives of the attack. Furthermore, in such circumstances, mere presence at the scene, which entails facilitation and enabling of all acts of brutal assault, constitutes the factual basis for joint commission.

---

<sup>116</sup>For example, in the case of the head of an organization who distances himself from his members who commit crimes. It should be noted that the Israeli legislator has made an effort - although incomplete - to correct what needs to be corrected. For example - the Law on Combating Criminal Organizations, 2003, and the Law on Combating Terrorism, 2016, which seek to deal with the difficulties mentioned. See also the writing of Prof. Mordechai Kremnitzer, which addresses the issue of attributing responsibility to the head of a criminal organization who deliberately distances himself from the acts, in order not to take responsibility for them. See Kremnitzer, *The Criminal Law Executioner*, supra note 104.

<sup>117</sup>Ibid.

On October 7, the terrorists were fully aware that they were embarking on a mass assault that would involve acts of terror, genocide as an integral component of their guiding ideology. These terrorists were not isolated individuals acting independently; rather, they chose to operate as if they were components of a machine of destruction orchestrated to commit genocide and to terrorize. Therefore, the responsibility that should be attributed to them extends beyond their individual actions to the collective actions of the entire throng, insofar as they align with the purposes of the attack. Each and every participant took part in a process that enabled the execution of all crimes committed. Because they knowingly joined an organization that operates under a genocidal ideology and actively participated in the action of this organization, none of them can claim they are not accountable for the crimes of the organization, regardless of which specific crimes they perpetrated after they crossed into Israel.<sup>118</sup>

To frame this argument from the perspective of culpability, we assert that individuals who join an organization explicitly committed to genocide, terrorizing and dehumanizing others understand their actions and make a deliberate choice. This choice precludes them from later invoking lack of choice (due to lack of specific knowledge) as a defense against criminal responsibility.

We repeat: Autonomy cannot be treated as an elastic concept that is selectively applied or manipulated at will. Perpetrators cannot choose, on the one hand, to join an unrestrained mob that operates as a singular entity and deliberately erases individual autonomy in order to enable full integration within the group, and then later, on the other hand, seek to evade responsibility by arguing that they lacked specific awareness of particular crimes committed at a given time and place.

## **B. DERIVATIVE LIABILITY**

Similar conclusions can be reached through the doctrine of derivative liability. As previously noted, the derivative liability doctrine assumes that even if the individual lacked actual awareness, when a reasonable person in the same circumstances could have foreseen the additional crimes, the individual remains liable because of their willingness to enter into circumstances that are fundamentally risk-creating. The individual thus effectively relinquishes control over the unfolding events and therefore contributes to an elevated risk that particularly egregious crimes will be committed.

In this case, the exceptional circumstances characterizing the attack on October 7 as a genocidal assault necessitate a broader legal and moral perspective. It must be recognized that mere participation in an operation in which the ideological framework underpinning the

---

<sup>118</sup>Note that the US RICO Act seems to be based on a similar concept of joint responsibility, when individuals act together as part of a criminal enterprise, and it is impossible to attribute specific crimes to specific individuals (Organized Crime Control Act of 1970, Pub. L. No. 91-452, § 901(a), 84 Stat. 922, 941-48 (codified as amended at 18 U.S.C. §§1961-68)). Comparison of the two legal systems is of course beyond the scope of this work, but it is important to note that other legal systems also allow for attributing criminal responsibility to an individual even when there is no direct evidence of that person's involvement in the specific crime.



mass assault inherently posed a clear and imminent risk that crimes against bodily integrity, personal autonomy, life and liberty would be committed with the aim of terrorizing the entire population and destroying it, is sufficient to establish that each participant could have, at the very least, foreseen that these offenses and crimes would occur.

Some individuals may have had direct awareness that derivative offenses, including sexual violence, would occur; in this case, their liability falls under standard joint criminal enterprise principles. Regarding all others, under the circumstances of the October 7 attack, we argue that each individual in the crowd had the ability to foresee the various crimes against human dignity, including sexual violence, that would result from their conscious participation in a mass terrorist and genocidal assault, which had been reinforced by training, preparations, indoctrination and the ideological conditioning that constituted an essential part of the operation. The extreme moral reprehensibility of the acts committed and the extraordinary conditions under which they occurred justify our argument even further.<sup>119</sup>

As demonstrated above, the Nukhba terrorists who participated in the assault on Israeli communities and military bases had previously undergone brutal mental conditioning and indoctrination explicitly aimed at brutal acts of terror and genocide. They targeted a population they perceived as entirely stripped of human attributes (dehumanization). They acted under the shield of a violent horde, in which each individual both empowered and drew power from the collective in order to abandon all universally accepted moral principles. The “moral vacuum” in which they operated was deliberately created to cultivate an environment in which heinous crimes of exceptional brutality could be committed and was maintained by a clear underlying rationale: the targeted victims were seen as devoid of human status. The attack was intended to annihilate, slaughter, and wreak destruction. The acts of sexual violence perpetrated within this framework, as part of the broader campaign to destroy and annihilate the Israeli and Jewish population, constitute crimes of genocide.<sup>120</sup> Thus, with regard to the October 7 attack, and also more broadly and conceptually, participation in an unrestrained horde that has been stripped of all moral restraint, is driven by a goal of genocide and is fueled by the perception of the victims as non-human establishes, beyond reasonable doubt the foreseeability of the most egregious crimes in existent legal statutes, including extreme violence, rape, and other forms of sexual violence.

---

<sup>119</sup>This “flaw”, according to Prof. Hadar Danzig-Rosenberg, “lies in the existence of exceptional circumstances whose realization establishes justification for moral condemnation of the defendant as stipulated in the arrangement”. See Danzig-Rosenberg, *supra* note 103, at 711.

<sup>120</sup>Catharine A. Mackinnon, *Genocide's Sexuality*, 46 *NOMOS: AM. SOC'Y POL. LEGAL PHIL.* 313, 327, 330, 338 (2005).

## ► **A Further Note on Israeli Case Law**

As discussed earlier, the issue of mass crimes has been addressed in Israeli jurisprudence. The Azizian case mentioned above and the Isaac Hamed case,<sup>121</sup> provide examples of how courts have considered the power of mobs and the implications of collective violence. However, Israeli case law has yet to fully articulate the profound legal significance incurred when an individual joins a violent and lawless mob. This lacuna is largely due to the fact that a situation of this magnitude and legal scope has never before occurred in Israel and, naturally, has not been adjudicated in court. As Israeli Criminal law regards the cooperation of even two individuals to commit a crime with exceptional severity, this severity is likely to be exponentially amplified when an entire mass converges into a unified entity and creates an “unstoppable force” that sweeps its participants into commission of atrocities that none of them might have carried out independently.

## ► **Joint Responsibility – A Legal Necessity for an Extreme Reality**

Classical criminal law is rooted in individual responsibility, but extraordinary and unprecedented circumstances demand an adapted legal framework. When crimes are committed as part of a coordinated mass assault with the explicit goal of genocide, it must be recognized that knowingly joining the attack is in and of itself sufficient to impose criminal liability on all participants for all crimes committed within its framework that align with the objectives of the attack.

### **From the above, we draw the following conclusions:**

- It is not necessary to prove that there was a separate mental element for each individual act. Cognizant participation in the terrorist and genocidal attack demonstrates actual awareness of all acts committed within its framework, or, at the very least, gives rise to the presumption that each participant could have known of their commission.
- Joint responsibility does not contradict the principle of culpability but rather aligns with it in a manner tailored to the scope and nature of the attack.
- Autonomy of will need not be measured at the moment of execution. It can equally be assessed at the moment of entry into the dangerous situation, that is, at the time of the conscious decision to join an attack that was, from the outset, designed to facilitate the commission of grave crimes against humanity.

We emphasize that these arguments are not merely abstract concepts of joint responsibility. They lead inevitably to a compelling legal conclusion: those who take part in a genocidal attack bear responsibility for all its consequences.

---

<sup>121</sup>See CrimA 807/99, supra note 105; CrimA 2285/05 State of Israel v. Isaac Hamed (5.12.2005) (Isr.).



From Screams Before Silence, courtesy of Kastina Communications

# Adapting Criminal Evidentiary Paradigms to Address Sexual Violence in Conflict Zones

---

## ► Introduction and Framing the Issue

The atrocities committed on October 7 raise pressing, complex questions, especially with regard to sexual violence: what forms of evidence can appropriately be applied in order to meet the legal threshold necessary to prove that acts of sexual violence occurred during the attack? How can those responsible be brought to justice?

Clarification of the evidentiary framework for the establishment that such crimes did in fact occur is crucial in order to achieve a broad range of critical goals: to secure global recognition of the events in the face of denial and silence; to reinforce the national and historical narrative; to advance efforts to blacklist Hamas as an organization that employs

sexual violence as a weapon of war; to impose targeted sanctions; and, most importantly, to ensure that Hamas and its operatives are held accountable and do not escape from these sexual crimes with impunity. These evidentiary challenges are not unique to the October 7 attack. They come up in almost all instances of conflict-related sexual violence (CRSV), although the specifics of the challenge, shaped by the particularities of the conflict and its context, may differ.<sup>122</sup>

Even before considering these evidentiary challenges, however, we must recall the particular characteristics of CRSV. The sexual violence committed by Hamas on October 7, 2023, cannot be regarded as isolated or treated like everyday sexual offenses. These acts of sexual violence were part of a coordinated, large-scale assault aimed at terrorizing, destruction and genocide. Therefore, viewing sexual violence in armed conflict through the same legal lens used for domestic or "regular" sexual offenses is fundamentally flawed. Such an approach fails to consider both the unique structural and contextual dimensions of these crimes as well as their impact on evidentiary processes. It also does not attend to the systematic and intensified silencing of victims, the deliberate killing of survivors, and the destruction of evidence, whether by deliberate design on the part of the terrorists or because the area in which the crimes were committed remained an active war zone and the site of numerous rescue and evacuation operations for hours and even days after the crimes were committed.

Use of evidentiary models applied to "regular" rape is clearly unsuited to prosecution of CRSV and will in effect lead to impunity for the perpetrators. This is legally and morally indefensible and profoundly unjust from a human, social, and moral standpoint. Furthermore, the particular characteristics of CRSV demand careful examination of the broader context in which they were committed. We will show that it is both necessary and possible to create a tailored, context-sensitive model that leads to construction of a coherent evidentiary picture that supports prosecution of Hamas terrorists who participated in the October 7 attack in southern Israel.

### **Before proceeding, three key clarifications are in order:**

- 1** **First**, this is neither a call to invent an evidentiary model from scratch nor a proposal to dilute legal standards. Adaptation of evidentiary paradigms to CRSV relies on evidence that is admissible, credible, and reliable under existing legal rules. Despite the fact that such evidence has the capacity to stand on its own, it is too often sidelined as little more than auxiliary evidence when the conventional criminal model is applied.

---

<sup>122</sup>International Protocol 2017, supra note 3.





- 2 **Second**, we emphasize the evidentiary value of context and the broader picture. The structure and scope of the attack must be treated not only as background, but as evidence in and of itself, or, at the very least, as a powerful corroborative element.
- 3 **Third**, the entire analysis presented herein is firmly grounded in criminal law and draws on its tools and methodologies. Criminal law sets the highest evidentiary bar, and is the strictest of all legal frameworks. Thus, our adaptation of evidentiary procedures in criminal procedures would certainly also be suitable to civil and/or international proceedings, where the threshold of proof is lower.<sup>123</sup>

## ► **Inherent Fundamental Challenges in Conflict-Related Sexual Violence (CRSV) and Their Impact on the Pursuit of Criminal Accountability**

### **A. A STRUCTURE OF FUNDAMENTAL CHALLENGES**

Proof of crimes of sexual violence in conflict zones entails navigation of a complex array of inherent challenges, each of which builds on the other, beginning with the difficulties common to all incidents of sexual violence and extending to the unique complications presented by CRSV specifically. Together, these layers form a cumulative structure of barriers that significantly hinder uncovering the truth and achieving justice.

#### **From the outset, we face two fundamental challenges:**

The first concerns the deep trauma experienced by victims, which often deters them from reporting the crimes. This trauma stems from the uniquely devastating nature of sexual violence and its consequences: the loss of personal autonomy; the shattering of a victim's sense of control; the psychological toll of trauma; the difficulty many survivors face when attempting to name and articulate what happened to them; the burdens of shame and guilt; and the fear of stigma. These emotional and psychological issues weigh heavily on victims and frequently lead to their silence, thus preventing disclosure. Moreover, in this regard, we note that many victims experience legal proceedings as re-traumatization, a phenomenon widely recognized in both legal and psychological literature as “secondary trauma”.<sup>124</sup>

---

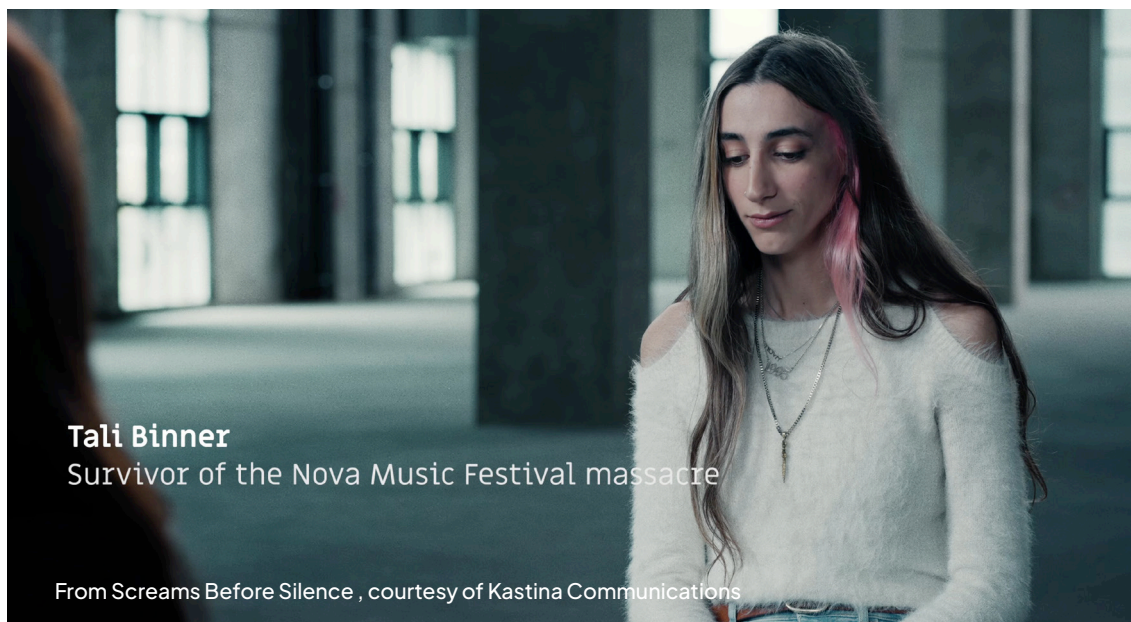
<sup>123</sup>UNITED NATIONS SECURITY COUNCIL COUNTER-TERRORISM COMMITTEE EXECUTIVE DIRECTORATE (CTED), TOWARDS MEANINGFUL ACCOUNTABILITY FOR SEXUAL AND GENDER-BASED VIOLENCE LINKED TO TERRORISM, 11 (2023); International Protocol 2017, *supra* note 3, at 31. See also references and explanation in *supra* note 3.

<sup>124</sup>CivA 3347/16 A v. B, 16–17 (20.2.2018) (Isr.); Shirley S. Abrahamson, *Redefining Roles: The Victims' Rights Movement*, 1985 UTAH L. REV. 517, 523 (1985).

The second fundamental challenge is the murder of most of the victims either during the act or shortly thereafter, resulting in their permanent silencing. This was a defining feature of the October 7 attack.

Features unique to sexual violence committed in the context of armed conflict add additional barriers. These include, among others, the public nature of the acts, such as forced public nudity, public exposure of the victim's naked body, and coerced "marriages."<sup>125</sup> Accounts of these crimes have emerged from testimonies of survivors who returned from Hamas captivity.<sup>126</sup> These aspects intensify the shame and stigma surrounding the violence, thus further deepening victims' silence.<sup>127</sup> These, in turn, are further compounded by sociocultural dilemmas within the communities affected, including religious and traditional norms as well as the broader societal approach toward recognizing, addressing, and reporting such crimes.<sup>128</sup> Furthermore, CRSV inflicts vast harm—both because it is particularly brutal and also because it intersects with multiple additional forms of violence and trauma.

These realities must be reflected in the evidentiary model employed. A framework that focuses solely on the individual victim and/or isolated acts is insufficient and inadequate. The evidentiary picture must encompass the broader damage these crimes were designed to inflict on the individual victims and their communities.



<sup>125</sup>Fionnuala Ni Aolain, *supra* note 15, at 327–329, 335–338.

<sup>126</sup>First group of evidence.

<sup>127</sup>SRSG–SVC Mission Report, *supra* note 5, para. 56.

<sup>128</sup>[CTR-96-4-T] *The Prosecutor v. Jean-Paul Akayesu*, Trial Chamber I Judgment (2 September 1998).



## **B. LOSS OF EVIDENCE, INTENSIFIED SILENCING, AND DESTRUCTION OF CRIME SCENES: THE UNIQUE CHALLENGES OF THE ATTACK ON OCTOBER 7**

As noted, most of the victims of the attack on October 7 did not survive. Those who did are living with severe trauma. Consequently, it may take a long time before they are able to come forward and report what happened; some may never be able to do so.

Furthermore, the difficult situation in southern Israel on and after October 7 had a profound and irreversible effect on the crime scenes. In "regular" criminal cases, the preservation of a crime scene is paramount. In contrast, following the October 7 attack, large parts of Israel's southern areas became active war zones. In such circumstances, Israel's primary goals were to repel the attack, rescue survivors, and secure the area from ongoing and additional threats. Moreover, circumstances connected to the fog of war, along with intense and prolonged combat, severely impeded collection of physical evidence and subsequent forensic examination.

As part of the assault, Hamas terrorists actively sought to destroy both the locations where the crimes took place and the bodies of the victims. Numerous sites and bodies were deliberately burned. These actions constituted part of the violence and directly undermined efforts to gather evidence.<sup>129</sup>

Israel's official institutions were caught off guard and were unprepared for the scale and nature of the atrocities. At the time of the attack, no suitable emergency protocols, contingency plans, or specialized training for responding to sexual violence in armed conflict were in effect.<sup>130</sup> This lack of preparedness extended to law enforcement agencies, which were not equipped to identify or investigate the specific features of crimes of CRSV.

Nevertheless, despite these immense challenges, substantial evidence emerged in the immediate aftermath of the attack and continued to emerge in the months following. As this report outlines, this evidence strongly indicates that Hamas terrorists committed crimes of sexual violence and deliberately used sexual violence as a weapon during the October 7 assault.

Assessment of this evidence through the narrow lens of traditional evidentiary paradigms, which fail to account for the unique nature of CRSV, could lead to a failure to assign responsibility for these crimes. Minimizing or discounting the significance of key evidence could undermine justice for victims and result in impunity for perpetrators.

---

<sup>129</sup>CHALLENGES IN IDENTIFYING AND DOCUMENTING SEXUAL CRIMES COMMITTED DURING A RAID TERRORIST ATTACK, *supra* note 12.; SRSG-SVC Mission Report, *supra* note 5, at 12–13; ANALYSIS OF THE STATE OF ISRAEL'S ACTIONS IN PREPARING FOR AND DEALING WITH SEXUAL VIOLENCE IN THE OCTOBER 7 ATTACKS AND POLICY RECOMMENDATIONS, *supra* note 12, at 16–19, 24–16.

## **► A Roadmap for Construction of an Appropriate Evidentiary Paradigm for CRSV and its Application to the Attacks on October 7**

### **A. THE NECESSITY OF DEFINING A ROADMAP THAT ATTENDS TO EVIDENTIARY BARRIERS**

Accepted rules of evidence provide the foundational roadmap for assessing the types of materials gathered following the events of October 7, as well as in other instances of CRSV. As Israel Supreme Court President Yitzhak Amit has aptly stated, “The law of evidence is the auxiliary tool that assists the court in fulfilling the ultimate goal of all judicial proceedings—the revelation of truth, for ‘truth shall spring from the earth.’”<sup>130</sup>

Naturally, evidentiary standards vary depending on the type of inquiry and/or the legal forum, with the most stringent requirements applying to criminal investigations and prosecutions. Establishing a framework that supports criminal accountability can thus also provide a basis for other forms of legal redress. Indeed, in international legal discourse, justice is often understood as a multidimensional concept and is not confined to the criminal realm. Thus, documentation and collection of information must also consider its relevance to other dimensions of justice.<sup>131</sup>

When it comes to sexual offenses, any evidentiary strategy must begin with a deep understanding of the unique nature of the harm and the profound trauma these crimes inflict. Legal doctrine has increasingly recognized the need to evaluate evidence in sexual offense cases through a lens tailored to the specific context. The Israeli Supreme Court, for instance, has articulated the existence of a “distinct evidentiary enclave” for such crimes. This does not constitute leniency or a reduction of the criminal burden of proof, which requires conviction “beyond a reasonable doubt.” Rather, this distinction is grounded in a profound understanding of the nature of these particular crimes, which has been shaped by the accumulated professional knowledge and experience of legal, law enforcement, and victim support systems in the handling of sexual offenses.<sup>132</sup>

The major challenge presented by the evidence gathered from the October 7 attack is not a shortage of material, but rather the conventional mindset through which such evidence is evaluated, which does not take into account that these crimes were committed in the context of armed conflict.

---

<sup>130</sup>Yitzhak Amit, *Repressed Memories in Criminal Law* in MENACHEM FINKELSTEIN - LAW, SECURITY AND BOOK 483, 484 (Sharon Afek, Ofer Grosskopf, Shahar Lipshitz, Elad Spiegelman eds., 2020); See also “The rules of evidence, in large part, are designed to further the truth-seeking end of the criminal justice system. The admissibility of only relevant evidence maximizes the opportunity for jurors to determine accurately what happened.” Steven I. Friedland, *On Common Sense and the Evaluation of Witness Credibility*, 40 CASE W. RES. L. REV. 165, 171 (1989); WILLIAM WILLS, *AN ESSAY ON THE PRINCIPLES OF CIRCUMSTANTIAL EVIDENCE* 513 (6th ed. 1912).

<sup>131</sup>International Protocol 2017, *supra* note 3, at 30–31.

<sup>132</sup>CrimA 5582/09 A. v. State of Israel, para. 90 (20.10.2010) (Isr.).



Authorities—and at times, public discourse—tend to focus exclusively on direct testimony from victims, which is mistakenly perceived as the only valid route to proving that such crimes were committed. This narrow approach filters out other essential forms of evidence and thereby limits the evidentiary framework from the outset. This is especially true when most of the victims have been murdered.

Therefore, evidence in these and similar cases must be assessed through a context-sensitive approach.

## **B. INTENSIFIED SILENCING OF VICTIMS AND IMPLICATIONS FOR EVIDENTIARY STRATEGY**

It is understandable that victim testimony should be treated as the primary evidentiary tool in standard criminal investigations and prosecutions, since this is typically the principal and most direct form of evidence available in such cases. However, the scale and nature of CRSV often result in an intensified silencing of victims, whether because they were murdered, as occurred on October 7, due to severe trauma, shame, or because of sociocultural, religious, or communal constraints, all of which are greatly exacerbated in conflict zones, as noted above.

The conclusion is unavoidable: if we insist on relying solely on victim testimony and pay little or no attention to additional and alternative forms of evidence that take into account the particular characteristics of CRSV, then we will never succeed in prosecuting those responsible for CRSV. We must therefore implement an evidentiary solution to accountability, which will address the massive societal impact of the attack. This can be achieved through those forms of evidence which are conventionally viewed as supplementary or corroborative to victim testimony, even though they do have independent probative value. In point of fact, there is no legal barrier to relying on such evidence: jurisprudence has long recognized that establishing criminal responsibility does not require establishment of a “maximum” form of proof and proof that establishes guilt “beyond a reasonable doubt” is sufficient.<sup>133</sup>

## **C. THE SHORTCOMINGS OF THE CONVENTIONAL PARADIGM AND ITS INABILITY TO CAPTURE COMMUNITY HARM**

Above, we have demonstrated that according to the doctrine of Joint Criminal Enterprise, joint criminal responsibility must be assigned for sexual violence committed during a mass terrorist and genocidal assault such as that of October 7 in order to reflect the full scope of the attack. We have also demonstrated why this legal framework must be paired with an evidentiary model that is appropriate to and commensurate with these events.<sup>134</sup>

---

<sup>133</sup>CrimA 28/49 Said Hussein Zarqa v. Attorney General, d PD 504, 516 (1950) (Isr.); CrimA 804/95 Moshe Greenberg v. State of Israel 49(2) PD 200, 209 (1995) (Isr.).

<sup>134</sup>See *supra* pp. 42–54.

<sup>135</sup>Fionnuala Ni Aolain, *supra* note 15, at 335–338.

Criminal law is designed to safeguard core social values by prohibiting conduct that constitutes a threat to these values. The graver the harm to a protected interest, the more robust and meaningful the legal response must be. In other words, the legal response must affirm the importance of the defense of that value. Sexual violence in armed conflict is not only a violation of individual autonomy. It is a deliberate assault on the autonomy of entire communities, intended to dismantle their fabric and instill terror.<sup>135</sup> This collective harm constitutes a protected legal interest in its own right. In cases of mass CRSV events, this interest must be reflected in the evidentiary framework, since use of a conventional evidentiary model fails to encompass the true nature of these crimes.

The inevitable result of ignoring this interest is impunity and lack of accountability for perpetrators, which undermine the very foundations of criminal justice. We further argue that this issue pertains not only to the substantive questions of criminal liability but also to the evidentiary framework. Indeed, narrow prosecutorial strategies have long been identified as a key barrier to achieving justice in CRSV cases.<sup>136</sup> One typical reflection of this is the prosecution's tendency to isolate each incident and examine it in a vacuum, seeking direct testimony and a link between victim and perpetrator.<sup>137</sup> This approach ignores the collective nature of the criminal act, and the communal aspect of the harm caused by it. It also obscures the deliberate harm caused by the mass. We argue that just like with the doctrine of joint responsibility, the understanding that these crimes have violated communal autonomy and not only individual autonomy makes it clear that accountability and justice in these cases cannot be achieved through a strategy that isolates incidents and insists on linking each perpetrator to a specific victim and a specific act.

A tailored model to such atrocities must encompass both **substantive** and **evidentiary** dimensions. From a **substantive legal perspective**, the harm inflicted upon a community must be recognized as a protected interest warranting reflection in the allocation of legal responsibility. This requires that the evidentiary process accounts not only for individual culpability, but also for the collective nature of the harm. The collective nature of the harms should be expressed both in terms of **joint criminal liability** among perpetrators, and in relation to the violation of the **communal values** of the affected group. From an **evidentiary standpoint**, materials collected with a recognition of the communal dimension of the harm and its characteristics can serve as **corroborative evidence** in the least. Such evidence may also serve to demonstrate patterns, intentions, and the broader impact of crimes.

---

<sup>136</sup>CTED Report, supra note 101, at 34–35.

<sup>137</sup>Ilana Kuriel, If you are a prisoner of October 7, as far as I am concerned, you have no right to live, Ynet (Jan. 1 2025) (Hebrew) <https://www.ynet.co.il/news/article/yokra14200599>. See the words of attorney Moran Gaz: "Unfortunately, it will be very difficult to prove these offenses," she says. "In the end, we have no complainants. What was presented in the media compared to what will ultimately emerge will be completely different. Either because the victims were murdered, or because the women who raped them are not prepared to reveal it. We contacted women's rights organizations and asked for cooperation. They told us that they simply did not contact them. There were parents who contacted the organizations and asked what to do if something happened to their child, but they did not reveal the abuse."



From Screams Before Silence , courtesy of Kastina Communications

#### **D. REFLECTING THE VIOLATION OF COMMUNITY AUTONOMY AND THE USE OF EVIDENCE STEMMING FROM THE PUBLIC NATURE OF THE CRIMES**

One of the characteristics of these crimes is that they are deliberately publicly executed, often in the presence of witnesses, in order to amplify the harm inflicted on the community. Thus, in cases of CRSV, we often find extensive external evidence that does not stem from the direct testimony of victims. Furthermore, in the digital age, these acts are becoming increasingly publicized through technology and social media as a tool to maximize harm and degrade the targeted community, which is a central aim of the violence.

Witnesses to such crimes are also victims, both because of the trauma the witnesses endure directly and because they are part of the targeted community. Their testimonies therefore serve a dual evidentiary function: they speak to both the commission of the sexual violence itself and to the broader harm inflicted on the community. It is wrong to treat such evidence as merely peripheral. These community-based accounts must be recognized as central to establishing criminal responsibility. They enable a comprehensive evidentiary portrayal of both the violation of the individual and the assault on the community.

Accordingly, the construction of an appropriate evidentiary model must emphasize the probative value of these context-driven materials. They are not deficiencies in the evidentiary record; rather, they are vital and legitimate instruments for legal truth and justice.

## ► An Evidentiary Model Tailored to Address Sexual Violence in Armed Conflict Contexts: Construction of a CRSV-Specific Model and Its Application to Proof of the Commission and Dimensions of Crimes of Sexual Violence in the October 7 Attack

Having outlined the core principles of the evidentiary roadmap, we now turn to the types of evidence that should form the basis for establishing the occurrence of sexual violence in conflict zones. These types of evidence form the evidentiary platform of October 7 presented Chapter 5 of this report.

### A. EYEWITNESS TESTIMONIES

As previously noted, a defining feature of CRSV is its deliberate use as a weapon to destabilize and harm communities. As such, these acts are often committed within the view of the public (unlike sexual violence in domestic criminal contexts). This increases the likelihood that there are direct witnesses to these crimes.



<sup>138</sup>See supra pp. 35–7, which detail accounts of witnesses who were present in real-time during the October 7, 2023, events.

<sup>139</sup>YANIV VAKI EVIDENCE LAW, 1408–1410 (2021) (Hebrew); CrimA 347/88 Demjanjuk v. State of Israel 47(4) PD 221, 393 (1993) (Isr.).

<sup>140</sup>Evidence used to identify the perpetrator is subject to various limitations set forth in case law. See *Id.* However, these are not relevant to the subject of this chapter; See supra pp. 35–7, where the testimonies of Tali Binner and Bar are comprehensively documented.

<sup>141</sup>See supra pp. 35–7, where the testimonies of Tali Binner, Bar, and other witnesses who heard acts of sexual violence are comprehensively documented.

<sup>142</sup>See supra pp. 35–7, testimonies of Tali Binner and Bar.





Indeed, relevant testimonies from individuals who saw or heard acts of sexual violence in real time during the attack are vitally important. In the context of the October 7 attacks, a substantial number of witness statements report firsthand observation of sexual crimes.<sup>138</sup> Such testimonies stand on their own as powerful and admissible evidence. Criminal convictions can be and often are secured based solely on the testimony of a credible eyewitness. As courts have consistently held, “direct perception through the senses carries with it an inherent reliability.”<sup>139</sup>

It is important to emphasize that we are not referring here to eyewitness identification of specific perpetrators.<sup>140</sup> Rather, these testimonies directly establish the occurrence of sexual violence during the attack. Under the model we have set forth regarding the attribution of criminal responsibility, criminal liability of those who took part in the mass attack is understood as joint responsibility, **and there is therefore no need to prove a direct link between a specific perpetrator and a specific act of sexual violence or a specific victim.** Rather, establishment of the fact that sexual violence crimes were committed as part of the attack is the purpose of the evidentiary process. This approach also gives expression to the protected legal interest violated – that is, to the destabilization and disintegration inflicted upon the community due to the widespread pattern of sexual violence directed at numerous victims across multiple locations.

## **B. TESTIMONIES OF WITNESSES WHO HEARD SEXUAL VIOLENCE**

In addition to visual accounts, there are testimonies from individuals who were present at various attack sites and heard acts of sexual violence as they took place.<sup>141</sup> As these accounts are based on auditory rather than visual perception, the testimony is more complex, yet it may nonetheless stand on its own as independent and admissible evidence.

Such testimony typically consists of two elements: first, a factual account of what was heard; and, second, circumstantial evidence that what occurred was, in fact, a sexual crime. This conclusion may derive solely from the witness’s own account or from a combination of that testimony and supporting and reinforcing corroborative evidence. For example, there are witnesses who describe hearing an incident of sexual violence, during which they heard women screaming incessantly. In this context, among the considerations that support the conclusion that crimes of sexual violence were indeed committed, one can include the nature of the screams and the location as well as the exchanges that were heard during the event by the witness. Likewise, a witness who heard a crime of sexual violence at the time it occurred while he was in a nearby location and then came out of the hiding place and found bodies indicating sexual violence – this would support the evidentiary conclusion that he witnessed a crime of sexual violence.<sup>142</sup>

### C. RES GESTAE TESTIMONIES – REAL-TIME OR PROXIMATE REPORTS BY VICTIMS OF SEXUAL VIOLENCE

Additional testimonies that may serve as credible evidence for establishing the commission of sexual violence crimes include statements made by victims themselves, shortly after or contemporaneous with the sexual violence they experienced.<sup>143</sup> These statements, reported by witnesses, are known as *res gestae*: a well-established exception to the hearsay rule that is recognized across multiple legal systems.

*Res gestae* evidence refers to statements made in circumstances that guarantee their reliability, due to the immediacy and spontaneity of the utterance; these include statements made during or shortly after a traumatic event, often without the opportunity or incentive for fabrication.<sup>144</sup>

There are two primary rationales for admitting such statements as evidence. The first relates to the special context in which the statements are made, which lends them heightened credibility, e.g., a statement made by a victim of violence shortly after the act,<sup>145</sup> or a spontaneous utterance made in response to a shocking or emotionally charged event. The list of exceptions in this regard is neither finite nor fixed, and remains open to necessary additions as they occur.<sup>146</sup> The second rationale pertains to the strong public interest in preserving what may be the only remaining evidence under circumstances that preclude formal testimony. As Chief Justice Shamgar of the Israeli Supreme Court has stated: “There is a public interest in preserving every remnant of proof, especially where the surrounding circumstances negate any suspicion of falsehood.”<sup>147</sup>

Both rationales can be forcefully applied to the October 7 attack, and even more forcefully to the sexual violence committed in captivity. In incidents of CRSV—especially in mass attacks aimed at genocide and widespread killing, with all their defining characteristics—two key factors reinforce the reliability and admissibility of victim statements. First, the extreme and exceptional circumstances under which these statements were made

---

<sup>143</sup>See supra pp. 35–7, testimonies of Aviva Siegel and Agam Goldstein–Almog.

<sup>144</sup>CrimA 7293/97 Amer Jaffer v. State of Israel 52(5) PD 460, 470–473 (1998) (Isr.); CrimA 305/22 Fathi Ayoubi v. State of Israel 21–22 (7.9.2023) (Isr.).

<sup>145</sup>Ayoubi, supra note 144, at 22. See “In Israeli legislation, the exceptions to the ‘*res gestae*’ were regulated, among other things, in sections 9, 10(1) and 10(2) of the Evidence Ordinance”.

<sup>146</sup>Jaffer, supra note 144, at 470, 473.

<sup>147</sup>CrimA 3737/91 Asadi Khir v. State of Israel 46(3) PD 273, 277 (1992) (Isr.); Ayoubi, supra note 144, at 22.

<sup>148</sup>See pp. 67–70.

<sup>149</sup>CrimA 6392/13 State of Israel v. Meir Kriaf 34 (21.1.2015) (Isr.); 29A Am. Jur. 2d Evidence §1345 (2025).



and heard by witnesses provide strong assurance of their credibility. Second, given the nature of such attacks—which often result in the intensified silencing of victims, whether through execution or due to the fear and trauma that impede their ability to testify—there is a clear societal justification for relying on such statements as a valid evidentiary basis for establishing the commission of sexual violence crimes.

Admittedly, legal systems may require corroboration of such statements. As we have demonstrated in Chapter 5 and elaborate in the next section, corroborating evidence may be found through other forms of evidence related to the attack and its broader context.<sup>148</sup>

#### **D. CIRCUMSTANTIAL EVIDENCE**

Circumstantial evidence carries significant probative weight, provides another evidentiary tool for the establishment of the commission of crimes of sexual violence and other critical aspects of the October 7 attack, including the broader context, the ideological indoctrination underpinning the assault, premeditation, the existence of explicit directives to act with brutality and to instill terror and possible indications of directives encouraging acts of sexual violence.

Circumstantial evidence is evidence that does not directly prove the elements of an offense; rather, it establishes other facts from which conclusions can be drawn regarding the existence of the facts that require proof. According to the prevailing legal approach, the probative value of such evidence is not considered inferior to that of direct evidence.<sup>149</sup>



Convictions may be—and often are—based solely on such evidence, provided it meets criteria established in case law.<sup>150</sup> Indeed, jurisprudence holds: “The more diverse, compelling, and mutually reinforcing the pieces of evidence are, the more the parts of the puzzle come together to form an overall picture which—though it may not be complete or answer every single question—still allows for a logical conclusion to be drawn beyond a reasonable doubt, based on life experience and common sense’.”<sup>151</sup>

When direct evidence is lacking due to the nature or aftermath of a mass attack, circumstantial evidence may provide the inferential framework necessary for the drawing of legal conclusions. Accordingly, as a matter of sound legal policy, an evidentiary paradigm must account for the broader picture and ensure that all relevant evidence is gathered and integrated. When taken together, these elements can lead to inevitable conclusions regarding context, patterns, methods, premeditation, and more.<sup>152</sup>

In the context of CRSV generally, and in the context of the attacks on October 7 in particular, circumstantial evidence operates on two levels. First, physical findings from the attack sites significantly corroborate the testimonies previously discussed. Indeed, the testimonies of sexual violence reviewed earlier are significantly reinforced and corroborated by the existence of additional evidence of acts of sexual violence, through the similarities among the acts, their cumulative nature, and other corroborating characteristics. Furthermore, taken collectively, this evidence directly and circumstantially establishes the fact that sexual violence occurred during the attack. Second, this evidence stands on its own, as it illuminates broader aspects of the attack, including its guiding ideological indoctrination, organized planning, and systematic execution of violence.

As documented in this report, reports and testimonies point to recurring patterns with indicative features. These include bodies found with foreign objects inserted into the genitals; bodies bearing signs of genital mutilation; and bodies—mostly of women—discovered at various sites either fully or partially undressed from the waist down, with hands bound and gunshot wounds, often to the head or genitals. In some cases, such as along Route 232 and at the Nova festival site, bodies were found tied to structures, trees, or poles.<sup>153</sup> Additional patterns include bodies lying on the ground with legs spread and genitals exposed. These recurring features were identified across multiple locations, including kibbutzim, the Nova festival area, and Route 232.

---

<sup>150</sup>YANIV VAKI, *supra* note 139, at 996–997.

<sup>151</sup>Kriaf, *supra* note 149, at 36.

<sup>152</sup>See and compare the words of the team of experts led by Pramila Patten: “Nevertheless, considering the nature of rape, which often does not result in visible injuries, this possibility cannot be ruled out based solely on the medicolegal assessment. Therefore, the mission team concluded that circumstantial indicators, like the position of the corpse and the state of clothing, should also be considered when determining the occurrence of sexual violations, in addition to witness and survivor testimony”; SRSG–SVC Mission Report, *supra* note 5, at 18, para. 74.

<sup>153</sup>SRSG–SVC Mission Report, *supra* note 5, at 15, para. 58, 16 para. 60.



A recurring theme in many testimonies is that the victims of sexual violence were murdered during or immediately after the assault.

**The multitude and consistency of these reports, can indicate a widespread and deliberate pattern of brutal CRSV. They, along with repeated markers, and distinctive features in separate locations—demonstrate two key legal insights:**

- 1 First, as a matter of fact, the recurrence of patterns supports attribution of these acts to the group as a whole, rather than to isolated individuals.
- 2 Second, the systematic nature and repetition of these crimes evidentially rule out accident or isolated misconduct. Legally, such repetition suggests deliberate and intentional behavior, rather than chance or individual deviation.<sup>154</sup>

**As expressed in common law:**

"Similar results do not usually occur through abnormal causes; and the recurrence of a similar result (here in the shape of an unlawful act) tends (increasingly with each instance) to negative accident or inadvertence or self-defense or good faith or other innocent mental state, and tends to establish (provisionally, at least, though not certainly) the presence of the normal, i.e. criminal, intent accompanying such an act; and the force of each additional instance will vary in each kind of offence according to the probability that the act could be repeated, within a limited time and under given circumstances, with an innocent intent".<sup>155</sup>



From Screams Before Silence, courtesy of Kastina Communications

<sup>154</sup>YANIV VAKI, supra note 139, at 968–969; CrimA 265/64 Yosef Shiovitz v. Attorney General 19(3) PD 421, 455–461 (1965) (Isr.).

<sup>155</sup>Weiss v. United States, 122 F.2d 675, 1941 U.S. App. LEXIS 3043 (United States Court of Appeals for the Fifth Circuit September 11, 1941).

This leads to the conclusion that the attack was underpinned by indoctrination rooted in a genocidal ideology, terrorizing and dehumanizing Israel's citizens, which enabled the abdication of all moral restraint and allowed for commission of the acts described above.<sup>156</sup> The repetition of patterns may also suggest pre-attack planning that included CRSV or, at the very least, the absence of any clear and unequivocal directive prohibiting such acts. This undermines any claim that acts of sexual violence were spontaneous or unauthorized aberrations.

In this light, the importance of circumstantial evidence becomes clear. Given the evidentiary challenges CRSV presents, and to the October 7 events in particular, circumstantial evidence provides a crucial strategic foundation for the uncovering of the truth and construction of a coherent evidentiary record.

### **E. CREDIBILITY SAFEGUARDS FOR WITNESS TESTIMONIES**

As stated at the outset, this report does not seek to lower evidentiary thresholds nor to recommend reliance on unsubstantiated claims. Our evidentiary model is rooted in admissible and reliable evidence, without which no valid legal conclusions can be drawn.

Accordingly, whether dealing with direct or indirect testimony, safeguards must be in place to ensure the reliability of witness accounts. The credibility of any testimony must be evaluated through established legal principles, including contextual analysis, signs of truthfulness, and reasoned judgment. As noted in the Supreme Court ruling in the Demjanjuk case: "[d]irect perception through the senses carries intrinsic reliability and may serve as the sole basis for criminal conviction."<sup>157</sup> At the same time, certain challenges may arise from various aspects related to the testimony; in addition, there are also circumstances in which the law requires additional corroborating evidence to strengthen or verify the testimony.<sup>158</sup>

---

<sup>156</sup>See supra pp. 44–7.

<sup>157</sup>Demjanjuk, supra note 139, at 392–393.

<sup>158</sup>*Ibid.*



In cases of CRSV, particularly in mass attacks like October 7, the traumatic nature of events may raise the need for evidentiary corroboration—not because witnesses are inherently unreliable, but rather due to the intense impact of the violence on both direct victims and bystanders. Witnesses who were present at the scene often carry critical information. They are also trauma survivors. Disqualifying their testimony solely due to their psychological state would ensure impunity for the perpetrators and deny justice to the victims.

Not every witness' statement requires external corroboration. However, to safeguard the integrity of the record and preclude doubt regarding the effect of trauma on testimony, we recommend the broad use of all available accounts, testimonies, and forensic findings as corroborative material, based on case-specific needs. For example, one testimony may reinforce another if both describe consistent patterns; evidence of sexual crimes found at a scene may corroborate the account of a witness who was present there; and the extensive circumstantial evidence discussed above carries considerable probative weight.



## ► **Summary and Recommendations – An Adapted Evidentiary Paradigm for Prosecuting CRSV:**

In conclusion, we recommend adapting the traditional evidentiary model used in prosecuting sexual violence so that it better-fits the realities of armed conflict, and particularly the events of October 7.

**Following are our key recommendations:**

### 1 **TRANSITION FROM A VICTIM-CENTERED EVIDENTIARY MODEL TO A BROADER APPROACH:**

- Reduction of exclusive reliance on direct testimony of the victim as the central piece of evidence.
- In cases of CRSV, adoption of a paradigm that will account for the intensified silencing of victims through murder, trauma-induced suppression, and/or destruction of physical evidence.

### 2 **RECOGNITION OF THE UNIQUE NATURE OF CRSV:**

- Acknowledgement of the attack as a collective and systematic phenomenon in which acts of sexual violence were not isolated events but rather components of a coordinated assault on civilian populations. The communal harm caused by the attack constitutes a protected value that carries evidentiary significance.
- Definition of these crimes as CRSV, rather than attending to them as if they were "conventional" domestic sexual offenses.

### 3 **USE OF A BROAD RANGE OF ADMISSIBLE EVIDENCE:**

Reliance on multiple categories of evidence beyond direct victim testimony, including:

- **Eyewitness Testimonies** – individuals who directly observed the acts.
- **Earwitness Testimonies** – individuals who heard the events unfold, even if they were not visual witnesses.
- **Res Gestae Reports** – spontaneous victim statements made near the time of the incident, considered highly credible.
- **Circumstantial Evidence** – recurring patterns, victim body conditions, and the broader context of the attack.





#### 4 FOCUS ON ESTABLISHMENT OF JOINT CRIMINAL RESPONSIBILITY:

- Expansion of the concept of liability to include all participants in the assault, rather than the sole linkage of individual perpetrators to specific victims and specific offences.
- Assessment of accountability through the legal doctrine of Joint Criminal Responsibility, which directly influences the evidentiary analysis.

#### 5 REFLECTION OF THE HARM CAUSED TO THE COMMUNITY:

- Employment of evidentiary strategies to reflect the broader social and communal damage inflicted by sexual violence.
- Incorporation of testimonies from community members who witnessed the widespread impact of the crimes.

#### 6 MAINTAINING HIGH STANDARDS OF EVIDENTIARY CREDIBILITY:

- Adoption of a broadened evidentiary approach must not compromise evidentiary quality or reliability.
- Analysis of all evidence according to rigorous legal standards, including cross-verification of multiple sources to strengthen the evidentiary foundation.

## ► Conclusion

Adoption of a comprehensive, context-sensitive evidentiary paradigm tailored to the realities of armed conflict will enable prosecutors and investigators to overcome the challenges inherent in proving CRSV crimes in the October 7 attack.

Furthermore, the application of this paradigm may establish an important legal precedent for prosecuting similar crimes in other conflict-affected regions.



From Screams Before Silence, courtesy of Kastina Communications

# Conclusion

---

The findings presented in this report point not only to the gravity of the crimes committed, but also to the urgent need for systemic, legal, and policy responses—both in Israel and globally. The following recommendations are rooted in the Dinah Project’s unique evidentiary and legal framework and informed by the moral imperative to recognize, conceptualize, and confront the use of sexual violence as a weapon of war.

Our recommendations are directed at decision-makers at the state level and in international institutions and organizations; law-enforcement and legal professionals including the prosecutorial and the judiciary; and civil society actors in translating truth into action, and testimony into accountability.

They reflect both the specificity of the October 7 events and the broader challenges of addressing conflict-related sexual violence in contemporary conflicts.

They pertain to legal proceedings against perpetrators of sexual violence within the Israeli judicial system, as well as to measures on the international level. While grounded in the specific context of October 7 and the atrocities committed that day and in captivity, these recommendations also speak to the universal legal and moral imperatives surrounding conflict-related sexual violence (CRSV) and the obligation to pursue justice.



**Before presenting the full set of recommendations in detail, we highlight several urgent and concrete conclusions directed at Israeli legal authorities, international actors, United Nations bodies, and member states:**

- 1 This report demonstrates the existence of substantial evidence of sexual violence crimes committed during the October 7 attacks and in captivity, as part of a premeditated mass assault aimed at the destruction of the State of Israel and its people. We hope the evidentiary and legal framework set forth in this report—including how to approach such evidence, conceptualize the nature of the attack, and determine perpetrator liability—will serve as a central tool for prosecutorial authorities in Israel in evaluating the case files.
- 2 We call upon the Israeli prosecution authorities to ensure that sexual violence crimes are fully addressed through criminal charges. Prosecuting these crimes is not only a reflection of the significant evidence gathered, but a moral and legal imperative. It is essential for delivering justice to victims and the entire community, for acknowledging the historical and national dimensions of the sexual crimes committed on October 7, and for reflecting the role these crimes played in the overall course of the attack. Failure to prosecute them obscures their unique genocidal characteristic as a crime that targets the community as a whole, based on its dehumanization. Failure to prosecute will erode public trust, will undermine confidence in the justice system, and will send a dangerous message to perpetrators—present and future—that sexual violence can be committed in armed conflict with impunity.
- 3 Based on the findings of this report, we urge the UN Secretary-General to immediately list Hamas among the entities designated in the UN's annual report as using sexual violence as a weapon of war. The absence of such designation constitutes a distortion of justice, fails to uphold the UN's commitment to victims, and sends a dangerous message that may inadvertently encourage the continued use of sexual violence in armed conflicts.
- 4 Our work reveals that with the passage of time since the October 7 attack, new accounts and findings related to sexual violence continue to surface. As survivors and witnesses gradually process their trauma, more testimonies are being shared. This reinforces the importance of an additional international fact-finding mission, building on the initial visit by the USG-SRSVC Patten. The initial mission took place shortly after the attacks. In light of the growing body of evidence, we call upon the State of Israel to fully support a follow-up visit by the SRSVC, and we call upon the United Nations to advance such an initiative.

- 5 The October 7 attack provides a critical lens through which to reconsider how CRSV is conceptualized and addressed in international law. It underscores the need for tailored legal and evidentiary approaches to sexual violence in conflict, especially when such crimes are part of ideologically motivated campaigns of destruction. Treating CRSV as if it were a series of isolated, “everyday” acts of violence obscures comprehensive understanding of the multifaceted nature of the assault. We therefore call for further development of international criminal legal tools—both normative and procedural—to address cases of sexual violence committed as part of mass genocidal attacks.

Following are our full legal and policy recommendations:

## ► Recommendations

### ACCOUNTABILITY AND THE UNIQUE NATURE OF CRSV

- **Acknowledge and address conflict-related sexual violence** (CRSV) committed during attacks and **recognize its distinct nature from everyday sexual offenses**.
- **Incorporate insights derived from this report regarding the unique characteristics of sexual violence in armed conflict** and the particular elements manifested in the October 7 events into domestic legal frameworks, **including recognition of a "distinct evidentiary enclave" for CRSV**.

### THE USE OF JOINT AND DERIVATIVE CRIMINAL RESPONSIBILITY TO ENSURE ACCOUNTABILITY FOR CRSV

- **Apply doctrines of joint and derivative criminal responsibility to ensure accountability for sexual violence** committed as part of a coordinated mass assault, carried out under genocidal indoctrination and employing CRSV as a tool of terror and dehumanization against communities and individuals.
- Utilize the legal framework of joint criminal enterprise (JCE) when prosecuting perpetrators of mass attacks involving sexual violence.
- Apply derivative liability principles to hold participants in mass attacks accountable for sexual violence committed during such attacks.
- Consider the ideological indoctrination and mass behavior psychology when establishing responsibility for CRSV in the context of mass attacks.



## A TAILORED, CONTEXT-SENSITIVE EVIDENTIARY MODEL FOR PROSECUTING CRSV

- **Support the use of a tailored, context-sensitive evidentiary model** for prosecuting CRSV in domestic criminal proceedings, going beyond exclusive reliance on direct victim testimony and utilizing other forms of admissible evidence such as eyewitness accounts, earwitness accounts, *res gestae* statements, and circumstantial evidence.
- Implement the adapted evidentiary paradigm outlined in the Dinah Project Report when prosecuting cases of CRSV.
- Use all available accounts, testimonies, and other findings also as corroborative material, particularly where the traumatic nature of events may raise the need for evidentiary corroboration. Ensure credibility safeguards are in place for all evidence, but avoid disqualifying witness testimony solely due to the psychological state stemming from trauma.
- Recognize the probative value of context and the broader picture of the attack, treating the structure and scope of the assault, including the ideological indoctrination, as direct evidence or at least as evidence with a high corroborative value.

## THE IMPACT OF THE HARM INFLICTED ON THE COMMUNITY ON THE PURSUIT OF ACCOUNTABILITY

- **Recognize the Collective Harm Dimension**
- Acknowledge that CRSV targets not only individual victims but also causes collective harm to communities. Recognize the collective nature of the harm inflicted by CRSV on communities as a protected legal interest and reflect this understanding in legal and evidentiary frameworks.
- Acknowledge the broader context and the harm inflicted upon the community as a whole. This includes, among other things, identifying diverse forms of evidence and the collection of materials related to recurring patterns, pre-attack directives, and indications of systematic conduct. Incorporate this understanding into prosecutorial strategies and indictments.
- Consider charges that reflect both individual and collective dimensions of CRSV.
- Ensure that narrow prosecutorial strategies do not serve as a barrier to justice in CRSV cases, avoiding the tendency to isolate incidents and insist on linking each perpetrator to a specific act/victim when the crime is part of a mass, ideologically driven assault.

## SPECIALIZED INVESTIGATIVE AND PROSECUTORIAL UNITS

- **Establish Specialized Investigative and prosecutorial Units**
- Create dedicated units within law enforcement agencies that specialize in investigating conflict-related sexual violence.
- Ensure these units receive specialized training on the unique nature of CRSV, including its tactical and systematic use as a weapon of war and its implication on investigative procedures.
- Create specialized prosecution teams with expertise in handling CRSV cases.
- Ensure these teams receive ongoing training on international standards, trauma-informed approaches, and evolving best practices in CRSV prosecution.
- Establish connections between these specialized teams and their counterparts in other jurisdictions to share expertise and strategies.

## INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW AT LARGE:

- 1 **Acknowledge and incorporate the factual findings** regarding CRSV on October 7 and in captivity.
- 2 **Apply the proposed tailored evidentiary model and the doctrinal framework of joint responsibility to the investigation and prosecution of CRSV** in international tribunals and investigative initiatives.
- 3 **Use this report as a case study** to inform approaches to pursuing recognition and justice for victims of CRSV in other conflict zones globally.

## BLACKLISTING HAMAS

- 1 Support the **call for the UN Secretary-General to include Hamas on the blacklist of entities** responsible for the strategic use of sexual violence as a weapon of war
- 2 Such inclusion is **a critical step toward establishing international accountability**, affirming the gravity of the crimes committed, and sending a clear message that the use of sexual violence as a tactic of war will not be tolerated. It also serves as a vital act of recognition for the victims and affected communities, whose suffering must be acknowledged at the highest levels of the international system.



## NAVIGATING ETHICAL AND LEGAL DILEMMAS IN ACCESSING SENSITIVE INFORMATION

Recognize and address the complex ethical, legal, and professional dilemmas arising from the question of access to confidential information regarding survivors of direct sexual violence. Engage in an interdisciplinary deliberation composed of experts and stakeholders from all relevant fields to consider all relevant aspects, including privacy, autonomy, professional and ethical duties, to reconcile possible tension between these concerns and the attainment of justice and accountability.

## FINAL REMARKS

In confronting the profound violations uncovered in this report, it is clear that addressing conflict-related sexual violence requires not only legal tools, but also moral clarity, political will, and interdisciplinary innovation. The recommendations set forth here seek to transform recognition into action and legal insight into accountability. They are intended to serve as a framework for domestic and international actors alike, toward justice that is survivor-centered, context-aware, and historically honest. Only by reckoning fully with the scope and nature of these crimes can we hope to ensure redress for victims, recognition for communities, and the prevention of such atrocities in the future.





From Screams Before Silence, courtesy of Kastina Communications

# Acknowledgements

---

This book is the result of the collective effort of many individuals whose insight, commitment, and expertise made it possible. We are profoundly grateful for their contributions.

We wish to extend our special thanks to Att. Ayelet Razin Bet-Or, former member and co-founder of the Dinah Project, for her important role in the founding of the Dinah Project and in shaping its guiding vision, as well as for her meaningful contribution to the study of the events of October 7th, which provided a valuable foundation for the report's findings.

To Tal Hochman, CEO of the Israel women network, former member and a co-founder of the Dinah Project, for her thoughtful and constructive comments on the draft of this report, and her unwavering support and partnership throughout the way

To Eetta Prince-Gibson, member of the Dinah Project, for her collaboration, dedication, and vital contribution to the editing of this book and the project as a whole.

To Nurit Jacobs-Yinon, member of the Dinah Project, for her creative leadership, realization of vision, and the transformation of an idea into lived reality.





To Noa Kohai, co-founder and former member of the Dinah Project team, for her important contribution and for helping to lay the groundwork that made this book possible.

To the multi-talented Tamar Burstein, for her invaluable contribution to the legal research underpinning this book.

To Gal Noa Asher, an outstanding research assistant, for her precise and meaningful work.

To Keren Horowitz, former CEO of the Rackman Center, and to Shelly Blatt Zak, The current CEO of the Rackman Center, for their unwavering support, attentiveness, and creative problem-solving behind the scenes. We could not have done this without you.

To the dedicated staff of the Rackman Center — especially Leah goeppinger-levy and Shery Fireberger, who are always there for us.

To Gilad Freid and Studio GLD, for giving the book and the Dinah Project a powerful and inspired visual form.

To Noy Assraf, Noyse Publicity Management (USA), Yaniv Rosenberg, Smart, for their steadfast guidance and strategic insight.

We extend our heartfelt gratitude to Kastina Communications, Joey Low, Meny Aviram and Eytan Schwartz, producers of Screams Before Silence with Sheryl Sandberg, for their generosity and for granting us permission to include imagery from the film in this book. The film courageously delves into the raw core of the sexual violence crimes committed on October 7, 2023, and stands as a milestone in the ongoing struggle for recognition and justice for survivors — which lies at the very heart of the Dinah Project and of this book. Prof. Ruth Halperin-Kaddari, Academic Director of the Rackman Center and a Founding Member of the Dinah Project, appears in the film as an interviewee. The resonance between her words and the film's imagery echoes throughout these pages.

to Sivan Har-Shefi, author of the poem “The Scream,” for graciously allowing us to include her powerful words in this report, and to Prof. Laura Wiseman for her generous and skillful translation.

To Yair Madina and the team at Jerusalem Fine Art Prints, for their professionalism and wholehearted dedication.

A special thank you to Edut 710 and to the historical testimony archive of survivors of the October 7 events. We extend particular appreciation to the archive department team: Dr. Renana Keydar, Dr. Yael Netzer and Keren Shuster.— for their meticulous and sensitive work.

To Rotem Cohen, for her help and support in the legal research process.

## Acknowledgements

Finally, we wish to express our gratitude to our friends and colleagues for the professional, thoughtful, and impactful dialogue that shaped key elements of our thinking (in alphabetical order): Christen Broecker, Prof. Hadar Dancig-Rosenberg, Ambassador (ret.) Meryl Frank, Att. Naomi Granot, Att. Jennifer J. Long, Prof. Meir Litvak, Emmanuel Nahshon, Michal Philosoph, Prof. Uzi Rabi, Dr. Naama Schick, Att. Nofar Shemla-Kadosh and Dr. David Sperber.

We are grateful to all those named above, and to others whose names cannot be disclosed, whose dedication, professionalism, and unwavering moral clarity helped bring this book to light. The preparation of the report on which this book is based was not merely an academic or legal undertaking but a collective act of remembrance, responsibility, and resistance. To all those who shared their time, expertise, and trust with us — we are honored and deeply appreciative of your partnership.





This book is the result of generosity, support, and steadfast collaboration with our partners and funders: Seed the Dream Foundation, AJC's Jacob Blaustein Institute for the Advancement of Human Rights and the Leo Nevas Family Foundation, Women's Amutot Initiative of the Greater Miami Jewish Federation, Arev Foundation, National Council of Jewish Women and Sheila Katz, CEO

May this report serve not only as a tool for justice, but as a testament to the resilience of those who endured, a memorial for those who were murdered, and a symbol of our shared commitment to truth and to bringing justice and recognition to the victims and survivors of October 7 and beyond.



Conflict-Related Sexual Violence (CRSV) is not a byproduct of war – it is a weapon of war. This book that presents the report by the Dinah Project, goes beyond bearing witness to the atrocities of October 7, 2023, and their aftermath. It systematically categorizes all publicly available information based on its strength and reliability, and offers a novel legal framework ensuring accountability and challenging global patterns of impunity for CRSV. By reshaping how the world understands gender-based violence in conflict, it demands justice – not only for Israelis, but for all victims of CRSV, wherever they may be.



[www.thedinahproject.org](http://www.thedinahproject.org)

ISBN 978-965-597-381-5

