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**Human rights situation in Palestine and other
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Written statement* submitted by European Centre for Law and Justice, The / Centre Européen pour le droit, les Justice et les droits de l'homme, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 February 2024]

* Issued as received, in the language of submission only.

HAMAS' CONTINUED WAR CRIMES AGAINST INNOCENT CIVILIANS IN ISRAEL AND THE INSUFFICIENT INTERNATIONAL RESPONSE

I. INTRODUCTION

The purpose of this report is to detail the ongoing war crimes committed by Hamas since the October 7, 2023, attack and to request that the Human Rights Council respond to its actions in an appropriate manner. We consider it imperative that the international community unconditionally condemn Hamas' actions for what they are—war crimes—and hold Hamas and its allies responsible for their continuing atrocities.

II. HAMAS' CONTINUING VIOLATIONS OF THE LAWS OF ARMED CONFLICT

On October 7, 2023, Hamas launched a surprise attack against Israel, murdering over 1200 people, including men, women, children, infants, and the elderly. Hamas operatives mercilessly butchered civilians. They beheaded children, cut off limbs, raped and tortured women, burned people alive, and desecrated the dead bodies. Hamas also fired an estimated 2,200 rockets towards Israeli civilian population centers. Further, during the attack, Hamas took 240 hostages, including a ten-month-old baby who died soon after being taken.⁽¹⁾ This attack was unprovoked, premeditated, and constitutes the largest single-day civilian massacre in Israel's history.⁽²⁾ Hamas' murdering civilians, raping women, and torturing individuals, all constitute genocide, crimes against humanity, and war crimes.

Further, each rocket indiscriminately fired by Hamas toward Israel's civilian population centers also constitutes a distinct, individual war crime. Additionally, these rockets have been fired not only indiscriminately but without warning; a sharp contrast to Israel's warnings to population centers of impending missile strikes against Hamas targets.

Hamas is committing war crimes by conducting military operations from civilian facilities. It not only placed Israeli hostages in strategic places but also carries out military operations from civilian facilities and uses Gazans to shield military targets⁽³⁾ in violation of international law.⁽⁴⁾ Also in violation of international law is its use of hospitals and other civilian facilities as military bases of operations.⁽⁵⁾ In particular, the Shifa Hospital had a network of underground tunnels that Hamas utilized as a command-and-control center. The tunnels were used to store weapons, hold hostages, and provide a base of operations for Hamas.⁽⁶⁾ A captured Hamas member shared information about Hamas' extensive tunnel networks: "Shifa is not small, it is a big place that can be used to hide things."⁽⁷⁾ When this Hamas operative was pressed on why Hamas used hospitals to hide its activities, he responded, "[so] you won't strike them."⁽⁸⁾ However, Israel has come under international criticism for attacking facilities despite Hamas' using them as military bases. Furthermore, an Israeli hospital in Ashkelon has been struck by Hamas missiles three times as of November 1, 2023, despite never having been used for military purposes.⁽⁹⁾

Just over 100 hostages and the bodies of eight deceased hostages were released in a truce in late November 2023.⁽¹⁰⁾ As of January 9, 2024, Hamas still has 132 hostages,⁽¹¹⁾ with twenty-five to fifty of the hostages presumed to be dead.⁽¹²⁾ Information obtained from the freed hostages confirms that both men and women were raped or sexually abused and tortured.⁽¹³⁾ Most received very little food, if any, with one of the released hostages detailing how some days they were only given a few pieces of bread.⁽¹⁴⁾ Doctors noted that many lost up to 15% of their body weight while in captivity.⁽¹⁵⁾ Many of them were denied necessary life-saving treatment and medications.⁽¹⁶⁾ Psychological abuse was also extremely common, with one young boy being forced to watch videos of the October 7 attack at gunpoint.⁽¹⁷⁾ Despite these atrocities coming to light, the international response has been severely insufficient. Instead, Israel is being falsely accused of war crimes and genocide against the Palestinians.

III. THE INSUFFICIENT INTERNATIONAL RESPONSE

Despite the numerous war crimes committed by Hamas, the U.N. has yet to unequivocally condemn it as a terrorist organization.⁽¹⁸⁾ Not only that, but attempts have been made to equivocate the actions of Hamas with Israel's defensive response. The Independent International Commission of Inquiry on the Occupied Palestinian Territory accused "all sides" of committing war crimes since October 7, 2023.⁽¹⁹⁾ It fails to call the Hamas attacks indiscriminate.⁽²⁰⁾ Instead, the Commission is "gravely concerned with Israel's . . . attack[s] on Gaza,"⁽²¹⁾ yet entirely ignores Israel's clear right to self-defense recognized under international law. The Commission calls on "the parties involved to cease all forms of violence,"⁽²²⁾ without distinguishing unlawful violent aggression and terror from the lawful use of defensive force. The international community must abandon its anti-Israel position and recognize the atrocities being committed by Hamas for what they are: genocide, crimes against humanity, and war crimes meriting the Israeli defensive response.

Furthermore, the U.N. must take greater steps to ensure that international aid is not benefitting Hamas' terror campaign. The United Nations Relief and Works Agency (UNRWA) is currently far too entangled with Hamas for this to be a reality. On the day of the October 7 massacre, an UNRWA teacher in Gaza posted a video of Hamas fighters shooting up Israeli vehicles.⁽²³⁾ The post was accompanied by a verse from the Quran suggesting that the terrorists were on a mission from God.⁽²⁴⁾ One of Hamas' senior appointments, Suhail al-Hindi, was elected in 2017 to the Hamas Politburo to sit alongside the very author of the October 7 attack. Al-Hindi previously worked as a teacher for an UNRWA school.⁽²⁵⁾ There are recent accounts of at least twelve UNRWA staff actively participating in the Hamas attack.⁽²⁶⁾ Four of the UNRWA staff were directly involved in kidnapping Israelis.⁽²⁷⁾ Thankfully, donor countries like the U.S.A. and Germany have suspended their funding for UNRWA.⁽²⁸⁾ Sadly, the U.N.'s response has been to ask those countries to resume their funding.⁽²⁹⁾

IV. REQUEST

Hamas has murdered innocent Israeli civilians, raped women, abducted and tortured Israeli hostages, hidden behind innocent civilians using them as human shield, and committed a multitude of other war crimes in the process. Such acts continue to this day. The HRC must unequivocally condemn Hamas for its war crimes against Israel and acknowledge Israel's inherent right to defend itself. The HRC must dispense with its clear anti-Israel bias. It must also inquire into the UNRWA and its unethical and illegal entanglement with Hamas, and implement greater oversight to ensure no aid is being given to UNRWA. Finally, it must also demand the release of the remaining hostages held by Hamas.

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