



Statement on the Evidence of Sexualized Violence Against Israeli Women During Hamas' Attack on October 7, 2023

Released on 9 February, 2024

The *Lemkin Institute for Genocide Prevention* condemns gender-based violence in any form, including wartime rape. We underscore the need for uniform investigation and reporting strategies in situations of armed conflict, as well as worldwide training of emergency response personnel to document the evidence of sexualized violence in extreme situations. Nowhere is the need for these things more apparent than in the case of sexualized violence against women during Hamas's October 7 attack on southern Israel. Accurate reporting on gender-based violence committed by Hamas militants has been hampered by the failure of emergency response personnel to document evidence of sexualized violence in the wake of October 7. Accurate reporting has been further hampered by the efforts of the Israeli state to use sexualized violence in a politicized manner to justify the genocide it is committing in response to Hamas' attacks. Both of these hindrances have led to a situation where the reliability of evidence of sexualized violence on October 7 is either overstated or belittled.

Given the evidence of sexualized violence on October 7, the Lemkin Institute believes that sexualized violence took place and was widespread. While we are uncomfortable with the lack of forensic or physical evidence, we believe there is persuasive evidence of the commission of sexualized violence against Israeli victims by assailants related to the attack by Hamas on southern Israel. The perpetration of sexual violence on October 7 should not be surprising, since sexualized violence against women and girls is so common in conflict. Attempts to rationalize away claims of sexual violence with reference to its impracticality during an active attack, for example, fail to understand the meaning and use of conflict-related sexual violence. Sexual violence in and of itself can achieve the goals of militaries and armed groups, especially if those goals include dealing a decisive blow to an enemy, humiliating an enemy, provoking an enemy, or rupturing social bonds.

The absence of physical evidence for sexualized violence is not uncommon in the wake of mass atrocity, particularly in the context of societal shock and trauma, and should not be used as proof that sexualized violence did not take place. It is also not uncommon that the lurid stories of sexualized atrocities are not believed by international actors who assume that such

‘excessive violence’ is unlikely to be true. The doubt surrounding such stories also should not be used as proof that sexualized violence did not take place. Indeed, the sexualized violence that is commonly committed during genocidal processes is profoundly extreme and lurid — that is its point. The Lemkin Institute identified in its October 13 Active Genocide Alert (AGA) “several atrocities committed by Hamas militants that raise red flags for genocidal intent,” though at that point, we were not able to verify claims of widespread sexualized violence. Now that a fuller picture of sexualized violence is beginning to emerge in the international press, we are able to conduct a more informed analysis of this evidence and its potential implications for interpretations of the nature and intent of Hamas’s violence. This analysis has led us to conclude that ultimately it is not the absence of physical evidence that has stood in the way of a unified international outcry regarding sexualized violence on October 7, but the instrumentalization of sexualized violence by the Israeli state for propaganda purposes that seek to dehumanize Palestinian men and justify genocide.

Conflict-related Sexual Violence (CRSV) refers to “the systemic, pervasive, and orchestrated nature of wartime sexual violence that marks it as integral rather than incidental.” CRSV is the instrumentalization of sexual violence for political-military goals. Rape and sexual violence violate international humanitarian law, are considered war crimes, and can constitute crimes against humanity as well as the crime of genocide. In order to analyse CRSV it is very important to have accurate information on the nature and the extent of sexualized violence in a specific conflict. This information is often difficult to obtain due to the inaccessibility of conflict regions, the murder of the people subjected to CRSV, the lack of witnesses, the trauma of survivors, the unpreparedness of emergency personnel, and the general chaos that accompanies conflict situations.

The Lemkin Institute relies heavily on the United Nations, other international bodies, large human rights organisations, governments, and the local and international press in gaining an accurate picture of atrocities committed during conflict, as we do not have the capacity to conduct independent, on-the-ground fact-finding. As we noted in our Active Genocide Alert (AGA) from October 13, 2023, the claims of sexualized violence committed by Hamas were reported by the *Los Angeles Times* (LA Times) immediately after Hamas’s October 7 attacks and then were retracted on October 9 due to what the LA Times deemed to be a lack of evidence. This retraction had a significant dampening effect on reporting about sexualized violence outside of Israeli news sources. Reports of sexualized violence were being made alongside reports of other atrocities, such as the beheading of forty babies, that turned out to be unfounded. As we stated in our October 13 AGA, “[i]n light of the misinformation and disinformation flourishing at the moment, the Institute’s analysis may change as new facts emerge.”

Immediately following the October 7th attacks on southern Israel by Hamas militants, during which more than 1,200 Israelis were killed, the Israeli state, specifically Israeli Prime Minister Benjamin Netanyahu, accused Hamas of perpetrating widespread sexual violence. The head of the International Crime Investigations Unit of the Israeli police, Meni Binyamin, stated during a December 4 New York Times interview that “dozens of women and some men

were raped by Hamas militants on Oct. 7.” Binyamin went on to explain that it is the most extreme sexual abuse he has ever seen. Ruth Halperin-Kaddari, an Israeli women’s rights campaigner and lawyer, has argued that sexual violence by Hamas on October 7th was systematic and pre-meditated.

In response, Hamas officials denied reports of sexual violence, arguing that it violates Islamic principles. Instead, they claim that any sexual violence that occurred on October 7th must have been committed by other armed groups that spilled into the region after Hamas breached the barrier separating Gaza from southern Israel.

Israeli investigators admit that there is a lack of hard, physical evidence of sexual violence. David Katz, who is leading Israel’s official police investigation on allegations of sexual violence on October 7th, noted that there are no living victims who have spoken to police. During a press conference in November, he explained that “[W]e have no living victims who said “we have been raped”... [but] we have multiple witnesses for several cases.” While this does not mean that sexual violence did not take place, it has made timely reporting on sexual violence difficult and has hampered analyses of that violence for genocidal red flags, which rely on detailed understandings of the nature of the atrocities committed. Israeli women’s rights organisations have complained that emergency response crews did not collect evidence of sexualized violence from the bodies of victims, severely limiting an understanding of gender-based violence during Hamas’ attack. The collection of forensic evidence was hampered by many other factors as well. Four separate organisations responded to the attacks and none were prepared to discover high levels of sexualized violence. Furthermore, first responders and morgue workers who responded in the aftermath of the attack did not have the time or capacity to test for sexual violence using rape kits. They also followed Jewish burial traditions, which require that funerals occur quickly following death. Many of the dead who may have been victims of sexual abuse were buried before medical examinations could take place; physical evidence of the crime, such as clothing, was also buried with them.

The numerous explanations for why physical evidence is lacking have led some to argue that the claims of sexualized violence are overstated or made up.

According to many Israeli and Jewish women’s organisations, such as the U.S.-based National Council of Jewish Women (NCJW) and the Israel Women’s Network, the international community was unjustifiably slow to respond to Israel’s allegations of sexual violence on October 7th, which they attribute to anti-Israel bias and even antisemitism, as Sheila Katz, CEO of NCJW, has suggested. Given the difficulty in collecting evidence and forming a broad picture of the nature of sexualized violence on October 7, some of the slowness of outside observers to respond can be explained by the need to better understand the confusing information that was being released, particularly in the context of the heavy use of state propaganda by Netanyahu’s government. In a December 24, 2023 piece in the *Intercept*, journalist Judith Levine outlines the statements made by UN Women and other UN bodies after October 7 to show that, among other things, the failure of the Israeli state to collect forensic evidence of sexual violence from bodies before they were buried is in part to

blame for the lack of clarity about sexualized violence in the first two months after the attack. Furthermore, the exposure of many atrocity stories as unfounded, such as the now infamous claim of 40 beheaded babies, made quickly separating reliable witnesses from unreliable ones difficult, if not impossible.

Eventually, in late November, Secretary-General António Guterres issued a statement pushing for the investigation of sexual violence during the attacks, underscoring that “[n]umerous accounts of sexual violence during the abhorrent acts of terror by Hamas on 7 October [must] be vigorously investigated and prosecuted.” This was soon followed by a statement on December 1, 2023, by UN Women: “We are alarmed by the numerous accounts of gender-based atrocities and sexual violence during those attacks. This is why we have called for all accounts of gender-based violence to be duly investigated and prosecuted, with the rights of the victim at the core.” And in January, the United Nations Office of the high Commissioner demanding accountability measures be implemented for “the growing body of evidence about reported sexual violence....”

Despite the challenges of collecting physical evidence, Israeli officials have still collected forms of evidence from which they determined that sexual assault was widespread. For example, they have collected the body cameras of Hamas militants, surveillance footage, and crime-scene photographs, though it is not clear whether any of these show sexualized violence. Israeli officials have also described videos of naked and bloodied women filmed by Hamas on the day of the attack and women being carried away by the fighters who appear to be naked or semi-clothed, suggesting that women were sexually targeted by attackers. The Lemkin Institute has not seen this footage and cannot report on it. However, two videos that were shared widely on social media offer what we believe to be either direct evidence of sexualized violence or evidence that is highly suggestive of it. Specifically, the footage of 22-year-old Shani Louk lying in the back of a pickup truck in only her underwear with a leg bent at an unnatural angle was clear evidence of sexualized violence in the form of forced nudity, sexual humiliation, and desecration. In another video, which was geolocated to Gaza, a barefoot young woman is taken out of the trunk of a Jeep and led to the backseat; the seat of her pants is dark with what appears to be blood. While the latter footage is not definitive proof, it certainly is highly suggestive.

Additionally, at a news briefing, Kobi Shabtai, Israel’s police chief, presented a witness video that gave an account of a mass rape and murder of a young woman by Hamas militants. Forensic investigators and morgue workers testify that many bodies of female victims from the Nova music festival show trauma consistent with rape. An Israel Defence Force captain and member of the medical forensic team recounted seeing injuries consistent with violent rape, such as broken pelvises. *The Guardian* has recently reported that it has identified at least six cases of sexual violence that can be corroborated. Dr. Cochav Elkayam-Levy, chairperson of the Civil Commission on October 7 Crimes by Hamas Against Women and Children, an independent non-profit that she founded after October 7, has established a database of evidence. Dr. Elkayam-Levy met with Biden administration officials on December 7 to share her findings. The civil commission will be issuing its first report shortly.

Since October 7th, there have been reports by released hostages and doctors that sexual violence by Hamas militants is still occurring towards Israeli women in Hamas custody in the Gaza Strip. On October 7th, more than 240 hostages were taken from Israel by Hamas. Following over 50 days in captivity, a truce deal brokered by the US, Egypt and Qatar led to the release of approximately 105 hostages, with an uncertain number still held captive. Aviva Siegel, who was taken hostage from Kibbutz Afar Aza and released in November, alleges that she witnessed signs of sexual abuse by a guard towards a young female hostage after she appeared distraught when leaving the bathroom. At the Knesset's Caucus for the Hostages, Siegel also testified that she had witnessed a hostage, accused of being an IDF soldier, being tortured. *The Times of Israel*, where Siegel's testimony is shared, does not clarify if the hostage had been tortured sexually. Additionally, director of the Edmond and Lily Safra Children's Hospital, Dr. Itai Pessach, who interviewed and examined returning hostages, describes collecting evidence of hostages who were subjected to "physical, sexual, and psychological abuse." Notably, these allegations of sexual violence are not limited to women, but include also men. Rates of sexual abuse in detention are usually quite high, especially during conflict.

According to the Israeli welfare ministry, five women and one man have sought help for sexual violence they experienced on October 7. So far, however, none of these survivors have spoken publicly, a fact that is not uncommon with sexual violence, especially in times of war. Legal scholar and international women's rights advocate Dr. Ruth Halperin-Kaddari states that at least seven women who were killed on October 7 were also raped.

An important article by Pulitzer Prize-winning journalist Jeffrey Gettleman, published in the *New York Times* (NYT) on December 16, 2023, provided some of the most thorough accounting of the evidence that sexual violence was widespread during the October 7th attacks. Following a two-month investigation, during which more than 150 people were interviewed, the NYT piece substantiated claims of sexualized violence with multiple eyewitness testimonies. About one third of the article is devoted to the story of Gal Abdush, a victim of the October 7 attacks who, after a video of her circulated the internet, became known as the "woman in the black dress." The *NYT* has verified the video and summarised Abdush's condition as "dress torn, legs spread, and vagina exposed." Her story is told alongside the testimonies of many witnesses, establishing, in effect, the systematic nature and broader pattern of gender-based violence on October 7th. The investigation highlights the separate witness testimony of two Israeli festival attendees, Raz Cohen, a veteran of Israel's Special Forces who also works in the Democratic Republic of the Congo, and "Sapir" (a woman who remains partially anonymous), both of whom recount witnessing gang rapes when attending the Nova music festival near the Kibbutz Re'im and Gazan border. Cohen, who told the NYT that he saw Hamas militants laughing as they raped and killed a young Israeli woman, later told CNN that the rapists were Palestinian civilians from Gaza who has streamed over the breached border in the wake of Hamas. Sapir testifies she witnessed the rape and killing of at least five women as well as the mutilation of the breasts of one victim.

Sapir supported her verbal testimony with photographs of her hiding spot in which another survivor, Yura Karol, a security consultant, was also present. Karol similarly described having seen women being raped and killed from this hiding spot. The *NYT* article offered one of the most comprehensive understandings of the evidence of sexualized violence at the time and affirmed the necessity that these testimonies be taken seriously.

Nevertheless, there are flaws in the investigation, particularly related to the witnesses upon which the article relies, as summarised by Max Blumenthal on X on December 29, 2023. Perhaps the most notable of these flaws is the depiction of Gal Abdush's story, which is used as the hard evidence that rapes occurred.

Abdush's family members directly refute that there is evidence that Gal Abdush was raped. Abdush's family members, who were featured in the article through photographs and quotes, have come forward claiming that they were interviewed by the *NYT* under false pretences. They were under the impression that the article would honour Abdush when they agreed to participate in the interview. They did not know that sexual violence would be the piece's focus, explaining that, if they had known, "[they would] never accept that."

Nissim Abdush, Gal Abdush's brother-in-law, has pointed to inconsistencies with the timeline to refute the claim that she was raped. Gal's sisters, Tali Barakha and Mira Altar, also deny the *NYT* allegation of rape. Family friend Sharon Maluka drew attention to the extreme right-wing stance of the woman who captured the video of Gal Abdush, Eden Wessley. Specifically, soon after the October 7th attack, Wessley posted false claims that have since been debunked by Israeli media, reposted content from extreme right-wing organisations and public figures, and called Leah Tsemel, an Israeli lawyer advocating for Palestinian rights, "the devil incarnate." While her views could not have affected the footage captured by her camera, she released this footage to the world with her subjective interpretation of it as evidence of rape. In the words of Nissim Abdush, "the media invented it." Gal's mother shared that "the family knew nothing about the sexual assault issue until the piece in the *NYT* was published." Still, Gal Abdush became the *NYT*'s representation of violence committed against women on that day, with the article concluding that Hamas militants committed systematic rape and sexual violence.

The *NYT*, alongside other Western media outlets that have published stories on the systematic pattern of sexual violence on October 7, such as the *BBC*, has relied heavily on testimonies from Israeli soldiers, paramedics who are part of Israeli command units, and individuals affiliated with the Israeli Defence Forces (IDF). The number of witnesses who have links to the Israeli military, the Israeli state, and the security sector stands out. For example, in the *NYT* article, volunteer medics and soldiers recounted finding at least 24 female bodies that were half or fully naked and many also mutilated. The article also highlighted testimonies from volunteers of ZAKA, an all-male, conservative, ultra-Orthodox emergency response that helped to collect bodies in the aftermath of October 7th. Notably, given the religious demographic that makes up ZAKA, its members are very modest about sex, with several men saying that they "didn't think of rape at all" when they first rushed to the massacre sites in the

aftermath of October 7th. Israeli website Ynet has reported that ZAKA was officially recruited into Israel's *hasbara* ("public diplomacy," i.e. propaganda) efforts after October 7.

Members of the Israeli Defence Forces (IDF) and ZAKA were given the opportunity to share what they witnessed in the aftermath of October 7th at a UN Special Session on December 4, 2023 held at UN headquarters in New York titled "Hear Our Voices: Sexual and Gender-Based Violence in the October 7th Hamas Terror Attack." Simcha Greinman, an emergency medical worker with ZAKA, spoke of going into houses and finding a woman with nails and objects in her genitals and another woman whom he found half naked from the waist down. Haim Outmezgine, the special unit commander of ZAKA, recounts that "[t]wo girls' bodies in a field, both shot in the head, legs apart, one with shorts ripped and shot in the vagina and other with jeans pulled down and bruises on her legs." Shari Mendez, a member of the Israeli Defence Force (IDF) Reserve Unit, was responsible for carrying out identifying and preparing for the burial of deceased female soldiers. She testified that "[b]odies were often found partially or fully naked with their underwear often bloodied." Unfortunately, to our knowledge, none of these stories have so far been corroborated with photographic or other forensic evidence.

The heavy reliance on the testimony of witnesses associated with the IDF and the Israeli state has hampered efforts to call attention to sexualized violence on October 7. Nevertheless, in Israel, which mandates military service for both young men and women, it would be hard to find young people without links to the military. Furthermore, it stands to reason that soldiers would be the first to witness evidence of sexualized violence in a war zone. Efforts by the Israeli state to instrumentalize sexualized violence to dehumanize Palestinians, on the other hand, has required the exercise of healthy skepticism in the face of narratives coming from people associated with the Israeli state. The lack of forensic evidence has not been helped by the fact that the Israeli state has been caught in several lies since October 7, some furthered by Israel's supporters, including US President Joseph Biden. This propaganda has been used to justify Israel's unrelenting and brutal attacks on Gaza, which, in the latest death toll, have now claimed the lives of over 27,747 Palestinians and which have been called genocide by many experts and organizations, particularly by South Africa in its legal claim submitted to the International Court of Justice on December 29, 2023.

In a similar vein, Dr. Elkayam-Levy, the chairperson of the Civil Committee investigating Hamas crimes against women and children who has been one of the key voices bringing attention to sexual violence on October 7, reportedly has very close connections with the National Security Council for the Israeli Prime Minister, with which she works in an advisory capacity. She has previously worked in the International Law Department of Israel's Attorney General's Office, where she published guidance for managing hunger strikes (by Palestinians) in Israel's jails and provided legal justification for forced feeding, a violent and painful practice that the UN Commission on Human Rights has determined amounts to torture. During a November 12 talk at Harvard's Maimonides Society, Dr. Elkayam-Levy referred to photographic evidence of sexual violence during Hamas' October 7 attack that turned out to be a photograph of a female Kurdish soldier taken in 2022, according to journalist Max

Blumenthal. The photograph had originally been published on the Israeli state's " Hamas massacre" website, which is where Dr. Elkayam-Levy may have found it. Israel removed the photo after Blumenthal tracked down its identity.

Prime Minister Benjamin Netanyahu has used evidence of atrocities during the October 7 attack to argue that Hamas had the intention to commit genocide against all Jews in Israel. This has been an important part of his campaign to justify genocide against Palestinians in Gaza. At a November 23, 2023 meeting with ZAKA, for example, the Prime Minister told ZAKA members, "You have given direct testimony of the most terrible horrors that have been perpetrated against the Jewish people since the Holocaust. The only difference between what happened in the Holocaust and what happened in the area adjacent to the Gaza Strip is the ability; if they could have, they would have slaughtered us all." He then tied ZAKA's testimonies about the October 7 atrocities directly to Israel's public relations efforts. "You have an important role in influencing public opinion," he said, "which also influences leaders. We are in a war; it will continue. The war is not only to take care of the 1,400 people...but also to give us the maneuvering room." Over the past months, ZAKA has become one of the leading organizations talking about Hamas atrocities, and yet many of the stories being told cannot be substantiated. An investigation by Haaretz concluded, for example, that there is no evidence of a pregnant woman being eviscerated in Kibbutz Be'eri; in fact, it found evidence that indicates the story is false. While ZAKA's testimony should, of course, be taken into account and corroborated with other evidence, its role in justifying Israel's genocidal policies towards Gaza and the West Bank must also be taken seriously.

The trustworthiness of some of the witnesses who have spoken publicly about seeing rapes during the October 7 attack has also been called into question. Raz Cohen, the Special Forces veteran who provided some of the key witness testimony to the New York Times, has changed his testimony many times before speaking about sexual violence that he says he witnessed firsthand, though this is not uncommon when witnesses are reluctant or embarrassed to speak publicly about sexualized violence they have seen. However, Cohen also appeared in a December fashion show where survivors of the Nova festival massacre and relatives who lost loved ones on October 7 came together to model clothing inspired by the attacks, which does not seem in line with a witness who is squeamish or feels shame around public discussions of sex. The POV (Point-of-View) fashion show was organized by *Fine Productions*, a luxury fashion company, in Old Jaffa (Tel Aviv) and was held on December 10. Its stated mission was "to model dresses inspired by the brutal atrocities." One of the models wore a 'raped woman's outfit' which consisted of a blood-stained bodysuit "[symbolizing] the rape of so many Israeli women on Oct 7." Cohen appeared in the show dressed as Moses.

The Lemkin Institute takes allegations and evidence of sexual violence against Israeli women on October 7 very seriously. Witness testimony and the identification of sexual violence survivors (though not publicly) is important. Often this is the only evidence we have to determine the existence of sexualized violence at times of genocide. Too often, surviving witnesses, once they reach safety, are accused of being mistaken due to trauma. Or changes in

their stories are perceived as evidence of deceit rather than related to the reluctance to speak publicly about matters of a sexual nature or to trauma associated with the events being described.

Sexual violence can be very strong evidence of genocidal intent, as it expresses the violent contempt, dehumanization, degradation, and humiliation that is at the center of the crime of genocide. Some of the fact patterns suggested by eyewitnesses to sexual violence on October 7, such as gang rapes, the presence of laughter and play among perpetrators during rape and murder, and the targeting of symbols of the life force (breasts and genitalia) for abuse, would be strong evidence of genocidal ideation on the part of the people committing the atrocities. Certainly, the evisceration of a pregnant woman is an atrocity that is highly correlated with genocide, though that story has been debunked by the Israeli newspaper Haaretz.

It is important to note in weighing the evidence that sexualized violence is very common during conflict. It is also a common consequence of feelings of humiliation. Although it is not unavoidable, most militaries and armed groups are not trained in how to prevent it among their members and prohibitions against it are rarely consistently and stringently enforced, as they must be if an armed group is to avoid it. During genocide, sexualized violence is almost always ubiquitous. So it would not be surprising if sexual violence occurred, or even that it was widespread, on October 7.

With this being said, the Lemkin Institute calls for approaches that place the victim and survivor at the center of the narrative. It is critical to get the stories as right as possible, so that victims and their experiences on October 7 and in captivity can be properly memorialized and the entire society can form a fact-based understanding of the terrible crimes committed against its members. The exact details of atrocity and human suffering matter very much, so painstaking attempts must be undertaken in order to try to get these details as right as possible, even given the enormous obstacles to collecting evidence in this case.

Furthermore, and in line with the above, we call for more critical and forensic analyses of the sources that dominate the discussion of sexual violence on October 7th. The Lemkin Institute hesitates to blindly follow what may be, at least in part, Israeli state propaganda, given that the Israeli state has been weaponizing sexual violence against women on October 7 to justify genocide against Palestinians. Sexual violence can be a strong driver of a genocidal response, but its presence does not justify that response or render it legal under the Genocide Convention or the laws of war.

We are keenly aware that false charges of sexualized violence are common in situations of colonial occupation and within racialized hierarchies of power, as evidenced by the practice of lynching in the “Jim Crow” United States and the false atrocity charges, including sexualized violence, that were leveled by Germans against the Herero people at the start of the Herero genocide in 1904. This context must also be taken into consideration.

The Lemkin Institute for Genocide Prevention joins calls for the re-centering of victims in the discourse around October 7 and stands with organizations such as the Office of the High Commissioner and Physicians for Human Rights in calling for a thorough and well-resourced independent investigation of the crimes committed on October 7. We further call on Israeli authorities to cooperate with international bodies to document the atrocities of October 7. The Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem and Israel, has approached physicians and hospital staff who treated victims of October 7th as well as released hostages held by Hamas for evidence of war crimes, including gender-based crimes. But on January 15, 2024, Israel's Health Ministry discouraged members of the healthcare system from engaging with the United Nations body, which it believes holds an anti-Israel stance. This lack of collaboration prevents what the Office of the High Commissioner has called for in their follow-up statement on January 8, 2024—cooperation with investigators.

Independent international investigations will help ensure that Israeli survivors of sexual violence on October 7 are believed and that the experiences of victims are taken seriously while also ensuring that the investigation is impartial and just. We urge Israeli citizens and authorities to work with the Commission of Inquiry. An independent international investigative body will help us achieve the goal set by UN Women: that accounts of gender-based violence are investigated "... with the rights of the victim at the core."