**The Hamas Attack of October 7 and the Holding of Civilians in Captivity by Hamas in the Gaza Strip Are Tantamount to Torture, Inhuman and Degrading Treatment and Are Absolutely Forbidden; PCATI Is Making Its Professional Capabilities Available to the Survivors of the Massacre, the Captives, and Their Families**

The Public Committee against Torture in Israel (PCATI)\* was established over 30 years ago to uproot torture in Israel and to defend all survivors of torture. During the vicious attack by Hamas against Israel on October 7, 2023, thousands of Israelis and citizens of other countries – including women, children, and elderly people – were the victims of atrocities and abuse by the Hamas attackers. These actions constitute torture, inhuman and degrading treatment strictly prohibited in accordance with international law and constituting war crimes. Some six weeks after the attack, hundreds of civilians and soldiers are still being held by Hamas in the Gaza Strip. The holding of these persons in captivity also constitutes torture, inhuman and degrading treatment.

PCATI stands alongside the survivors of the attack, the captives, and their families and is offering to make its professional experience available in the field of identification, documentation, and the representation of the survivors of torture. PCATI joins the call to release all the captives quickly.

Background: The Events of the Massacre On October 7 and Their Ramifications

The murderous, proactive, and preplanned attack by Hamas on October 7 left behind a horrifying trail of death, destruction, suffering, and devastation. The attackers – Hamas activists and members of other organizations in the Gaza Strip – committed shocking massacres and the wholesale slaughter of Israeli and foreign civilians, including children, women, and sick and elderly people.

Over 1,200 Israeli and foreign citizens were murdered in the Hamas attack. Thousands were injured, including many who survived serious multisystemic injuries and will require years of rehabilitation. Thousands of people, including children, survived the horrors but will be left with psychological scars. Over 200 children, women, and men are still being held captive by Hamas and other organizations in the Gaza Strip, including some who require medical treatment and assistance.

The terrible cruelty of the Hamas attack is completely incompatible with any moral standards and completely contrary to international law. It is imperative to state without any reservation that there is not and cannot be any justification for the murder of civilians and for the unbridled abuse of helpless people, nor for the kidnapping of women, men, and children.

As a longstanding human rights organization, we strongly and clearly criticize Israel for human rights violations committed in the Occupied Territory, for systematically torturing Palestinians, for imprisoning thousands with a fair trail through administrative detentions and in harsh conditions of incarceration, and for violating international law every day both in the occupied West Bank and East Jerusalem and in the Gaza Strip, which has been under siege for 16 years. Despite the heavy mourning felt by Israelis at this time, and the petrifying concern for the fate of the captives, the war crimes committed by Hamas activists in the Gaza Envelope area do not constitute an excuse or permit for the severe and indiscriminate harming of Palestinian civilians in the Gaza Strip, or for violent attacks against the population in the West Bank.

Equally, the criticism we have leveled on numerous occasions before and since the outbreak of the war cannot and must not serve as legal or moral justification for Hamas’s crimes. Accordingly, this position paper is devoted to the condition of the Israeli victims of an attack unprecedented in its scope and severity. It aims to offer a preliminary analysis of their legal situation and of the types of relief we believe we can provide them.

The Massacre Events and the Holding of Captives Amount to Torture, Unhuman and Degrading Treatment and Constitute a War Crime

The acts committed by Hamas on October 7, 2023, within the territory of Israel, included the deliberate murder and abuse of civilians, including sexual violence, and the kidnapping of civilians for the purpose of applying pressure on the State of Israel and in order to condition their release on actions by Israel.[[1]](#footnote-1) These acts constitute a grave violation of the rules of international humanitarian law – treaty[[2]](#footnote-2) and customary,[[3]](#footnote-3) which also apply to Hamas, and constitute war crimes in accordance with the Treaty of Rome of the International Criminal Court in The Hague.[[4]](#footnote-4) The continued holding of the captives also constitutes a war crime.

The prohibitions against violence, murder, maiming, sexual abuse, and torture apply in every situation and to every conflict, and these continue to apply now. At the time of writing, we do not know how the captives are being treated; we hope they are well. However, the little we know is that they are held in total isolation from the outside world, without the possibility to meet representatives of the Red Cross, without the possibility to talk to their families, without the possibility to know what has happened to their families who remained in Israel, and without knowing when and how their captivity will end, creating a harsh sense of helplessness. All these together constitute torture in themselves, and certainly so in light of the protracted length of time that has passed since the date of their kidnapping.[[5]](#footnote-5)

**Both the survivors of the massacre in the Gaza Envelope on October 7 and all persons currently held captive have been the victims of torture and inhuman, cruel, and degrading treatment and the victims of a war crime. As such, they are entitled to the cessation of the torture – i.e., their immediate release – as well as to justice, truth, and rehabilitation in the spirit of the Convention Against Torture.**

The crimes and their physical and psychological ramifications should be documented in an appropriate and professional manner in order to bring justice for the survivors

The Istanbul Protocol,[[6]](#footnote-6) the international guide for documenting and investigating torture and other forms of abuse, which guides us in our everyday work, establishes the minimum rules for the documentation and investigation of torture. It does so while recognizing the psychological and physical ramifications of torture for survivors. The documentation of torture in accordance with the Istanbul Protocol is undertaken in accordance with a precise format and by a team of physicians, legal experts, and mental health professionals. It is a trauma-informed process, i.e., one that is executed while taking the necessary precautions to protect torture survivors, who are liable to be in a post-traumatic state, and accordingly it is the recommended proceeding for collecting testimony from torture survivors.

The Istanbul Protocol enables the creation of medical-psychological evidence for the purpose of realizing the right to justice in criminal proceedings, on the one hand, and rehabilitation based on the ramifications of torture for each person, on the other. The protocol has won international recognition as the leading tool for this purpose, including by the UN, but it has not yet secured similar recognition in the Israeli legal system. In order to bridge this gap, PCATI has trained dozens of professionals to undertake evaluations in accordance with the Istanbul Protocol, and has included these evaluations in various legal proceedings.

**The Istanbul Protocol provides a central and important tool for identifying and documenting torture survivors. It can create critical forensic support in future legal proceedings in their case and also assist in their ongoing rehabilitation.**

Conclusion

PCATI stands with the survivors of the Hamas attack on October 7, with the captives in the Gaza Strip and their families, who were the victims of torture and war crimes. We understand the long path that will be needed for the physical and psychological rehabilitation of all the survivors of the attack. We believe in the importance of documenting the atrocities they underwent – for the struggle against denial of the crimes that occurred and in order to ensure justice for the victims. We long for the safe return of all the captives and for an end to the cycle of violence that has already shaken the lives and violated the most basic human rights of so many innocent people.

Over decades of working for torture survivors, PCATI and the Forensic Group of Experts that supports its work have acquired expertise and a reputation in the identification, documentation, and representation of torture survivors. We now offer to make this knowledge available to the survivors of the attack, the captives and their families, and the professional bodies that accompany them.

Signed

**Public Committee against Torture in Israel**

**Forensic Group of Experts**

Tel Aviv, November 2023

\* The Public Committee against Torture in Israel (PCATI) is a human rights organization established in 1990 to struggle against the scourge of torture in Israel and the Occupied Territories. While many of our clients are Palestinian victims of the Israeli security forces, PCATI operates on the basis of a universalist worldview in the spirit of the International Convention against Torture, which establishes that torture, abuse, and inhuman and degrading treatment are improper and are absolutely prohibited, regardless of the religious, political, and national affiliation of the victims or the perpetrators. Accordingly, we have helped and continue to help victims of torture and serious institutionalized violence on both sides of the Green Law and from all parts of Israeli society. PCATI’s Legal Department provides legal representation for torture victims and acts on related principled issues, while the Public Department works to raise awareness concerning the presence of torture in Israel and to promote legislation outlawing torture.

PCATI is supervised in its work by the Forensic Group of Experts – some 30 medical and mental health professionals who are prominent in their fields and who work on an entirely voluntary basis. The members of the Group have undergone in-depth training enabling them to undertake evaluations in accordance with the Istanbul Protocol, to train other professionals to undertake such evaluations, and to undertake research concerning the documentation and treatment of torture survivors.

1. Article 1 of the International Convention against the Taking of Hostages, 1979 [↑](#footnote-ref-1)
2. Article 3, common to the Geneva Conventions of 1949; Articles 34 and 147 of the Fourth Geneva Convention, 1949; Article 4(2)(c) of Additional Protocol II, 1977 [↑](#footnote-ref-2)
3. Rules 87–105 of the Customary Rules of International Humanitarian Law, International Committee of the Red Cross [↑](#footnote-ref-3)
4. Articles 1, 2, 3, 4, 7, 8, 8(a) of the Treaty of Rome of the International Criminal Court, 1998 [↑](#footnote-ref-4)
5. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984; Articles 372 n, p, r, v, w of the Istanbul Protocol, 2022 Edition [↑](#footnote-ref-5)
6. <https://www.ohchr.org/en/publications/policy-and-methodological-publications/istanbul-protocol-manual-effective-0> [↑](#footnote-ref-6)