



THE CIVIL COMMISSION ON  
OCT 7 TH CRIMES BY HAMAS  
AGAINST WOMEN AND CHILDREN

*A Crime Without a Name for  
Victims Without a Voice*

**Kinocide:  
Uncovering the  
Weaponization of Families  
on October 7, 2023**



**DVORA**  
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INSTITUTE FOR GENDER & SUSTAINABILITY STUDIES

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# *A Crime Without a Name for Victims Without a Voice*

## **Kinocide: Uncovering the Weaponization of Families on October 7, 2023**

**The Civil Commission on October 7th Crimes Against Women and Children** was founded to document, research and raise international awareness of the war crimes and gender-based violence committed by Hamas and their collaborators against women, children and families during their brutal attack on Israel on October 7th. Led by Dr. Cochav Elkayam-Levy, a 2024 Israel Prize laureate and expert in human rights and international law, the Commission documents, researches, and advocates for victims, giving them a voice and challenging the denial of these atrocities. Its archive serves both as a memorial and a vital historical record. With a team of experts, including researchers, lawyers, forensic specialists, and trauma experts and supported by leaders like Sheryl Sandberg and Prof. Irwin Cotler, and other prominent figures on our advisory board, the Commission is raising international awareness and forging global partnerships to highlight these atrocities and pursue justice for the victims.

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For more information about the report, visit: [www.dvora-institute.org/cco7-1-1](http://www.dvora-institute.org/cco7-1-1)

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**To Support The Civil Commission on October 7th Crimes Against Women and Children:  
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*“On October 7, Hamas struck at the heart of the Jewish community: the family unit. Hamas’ atrocities against families were designed to break one of life’s strongest bonds. They tried, but they must never be allowed to succeed. This groundbreaking work by the Civil Commission, led by the incredible Dr. Cochav Elkayam-Levy, and supported by the Raoul Wallenberg Center methodically documents Hamas’ terror on that day. It also serves as a clarion call to the international community to stand up and take action to protect families across the globe from future acts of violence by classifying kinocide as a crime against humanity.”*

**—Sheryl Sandberg, Founder, Lean In**

*“In an Age of Mass Atrocity, the systematic brutalization of families by Hamas on October 7th - horrors too terrible to be believed but not too terrible to have happened - constitute the Crime Against Humanity of Kinocide. There have been, tragically enough, too many mass atrocities in our time, but this one harbours an unprecedented evil: the glorification and celebration of these genocidal atrocities in real time on digital media, amidst the call to commit these mass atrocities ‘again and again and again.’ This must serve as a wake-up call for the community of democracies to combat such mass atrocities— whatever their source— as we renew our individual and collective commitment to the pursuit of peace and understanding between states and peoples.”*

**—The Honorable Irwin Cotler, Founder and International Chair of the Raoul Wallenberg Centre for Human Rights and former Minister of Justice and Attorney General of Canada**

*“The atrocities committed by Hamas militants and their affiliates on October 7 in the ‘Gaza Envelop’ inside Israel shocked us to the core, not only because they represented the largest massacre of Jews since the Holocaust, but also because of the unspeakable cruelty that constituted and accompanied these atrocities. The Commission’s report took upon itself the difficult, but critically important, task of uttering part of the unspeakable, and developing a suitable term for capturing some its evil essence – kinocide. Like genocide, which is directed against a group of people, kinocide represents an attack against a group, using the family relationship holding between family members and their emotional, identity, cultural, symbolic, material and other bonds, as a way to maximize the intended harm of the attack. By describing this cruel practice and giving this a name, the Commission has taken an important step in the direction of recognizing this terrible crime against humanity and formulating suitable legal and social responses to it.”*

**—Prof. Yuval Shany, International Law Professor at Hebrew University, Researcher at Israel Democracy Institute, former UN Human Rights Committee member**

*“Our world is not short of atrocity crimes but lacks adequate remedies despite established legal frameworks. Perhaps because we tend to lump together all the myriad cruelties that humans inflict on each other, and we stop trying to understand the all-important gruesome detail of what perpetrators do in particular circumstances, and why? That way, the broadbrush labels of international criminal law short-change accountability and ill-serve justice. This original study challenges that laziness through a forensic focus on Hamas’s 7 October atrocities against Israelis. A compelling case is made that the weaponisation of families and the uniquely horrible mental, emotional, and physical destruction this wreaks – called ‘kinocide’ by the authors – deserves recognition and penalization as a specific war crime, and a crime against humanity that sometimes could also be a constituent act of genocide.”*

**—Prof. Mukesh Kapila, former Special Adviser to the UN High Commissioner for Human Rights**

*“This report furthers the cause of justice in conflict by seeking to name and pursue accountability for systematic attacks on those whom we cherish most: our loved ones. As the report explains, this horrific pattern of behavior is, unfortunately, present across many conflicts and throughout history, including on October 7, 2023, in southern Israel. The report is an important step in efforts to pursue justice for victims of kinocide worldwide and to acknowledge the entirety of the harm they suffered.”*

**—Prof. Nienke Grossman, Professor of Law, Co-Director, Center for International and Comparative Law, University of Baltimore Law School**

*“What the Civil Commission on Oct 7 Crimes has done is what Jews have done throughout the centuries in the aftermath of tragedy – bring insight to anguish to light a path through it. But most importantly, the Commission has taken a major step toward eradicating evil by giving it a name. Now the Cambodians whose families were ripped apart, the Bosnians who witnesses their loved ones assaulted before their eyes, and the Iranians who were forced to turn on their kin, all know what to call that nameless experience that once shattered their lives, and how to trace its lineage to other victims in the human tree of suffering.”*

**—Roya Hakakian, Writer and Cofounder of Iran Human Rights Documentation Center**

*“This study not only provides important and compelling documentation of the horrific atrocities of October 7th, but also a significant proposal for a new crime in international law. The legal and conceptual framework of kinocide merits further study and consideration in the broader context of international criminal law.”*

**—Prof. William W. Burke-White, law professor and policy advisor; Inaugural Director of Perry World House, an interdisciplinary global policy research institute at the University of Pennsylvania**



*“Kinocide represents a barbaric strategy that weaponizes the family unit to sow terror, obliterate trust, and perpetuate cycles of violence. Hamas’ deliberate attacks on the very fabric of familial and social bonds underscore the importance of exposing and combating these heinous acts. The Macdonald-Laurier Institute is proud to support this groundbreaking report, which sheds light on these atrocities and equips policymakers with the knowledge to counter such destructive practices and uphold the dignity of human connection.”*

**—Brian L. Crowley, Managing Director of the Macdonald-Laurier Institute**

*“In the dirty little wars of the 21st century, women, children, and whole families pay a particularly harsh price. Only through adhering to the rule of law can conflicts be managed. The cutting-edge concept in this paper advances the theory of law and molds it to capture the gravamen of the offenses of the brutal attacks on civilian non-combatants.”*

**—Prof. David Crane, Founding Chief Prosecutor of the UN Special Court for Sierra Leone and Distinguished Scholar in Residence, Syracuse University College of Law**

*“The October 7 attacks mark a chilling evolution in conflict: the first ‘phygital war.’ This new type of war blurs the lines between organized military operations and acts of terror. Hamas combined the coordination of a structured army with the brutality of terror, targeting the very fabric of Israeli society. Their goal went beyond physical destruction to deliberately dismantle the social contract through a ‘theater of terror,’ designed to instill fear, destabilize communities, and erode basic trust in individuals and institutions. At its core, the attacks symbolize a multi-layered penetration—of fences, homes, bodies, and digital devices. Each act carried not only physical harm but profound metaphorical significance, as attackers weaponized every form of entry to shatter family bonds. The use of victims’ devices to spread these horrors underscores the phygital nature of this war and the urgent need to recognize kinocide as a distinct crime. This report is crucial for exposing Kinocide - this weaponization of families and guiding efforts to confront and prevent such atrocities.”*

**—Dr. Tehilla Schwartz Altshuler, expert in law and technology and a Senior Fellow at the Israel Democracy Institute**

*“On Saturday morning, October 7, 2023, Hamas launched a widespread attack against Israel’s civilian population, at a time when most families were at home, killing more than 1,200 people and kidnapping more than 250 into Gaza. As this report notes, the attacks did not spare women and children, and specially targeted families within residential communities. These attacks were designed to destroy the family unit, to maximize the harm to families, and to wipe out these communities. The weaponization of families is neither new nor unique to the October 7 attack but it is time we recognized kinocide as a new international crime. Deliberate targeting of families should be recognized as constituting a new form of international crime.”*

**—Masih Alinejad, Iranian-American journalist, author, and women’s rights activist**

*“This groundbreaking report shines a light on the devastating weaponization of families—a form of violence so profound that it required its own name: Kinocide. By documenting the systematic targeting and torturing of families by Hamas in the atrocities of October 7, 2023, it not only amplifies the voices of victims but also underscores the urgent need for global recognition, accountability, and collective action to prevent such horrors from happening again.”*

**—Ms. Sheila Katz, CEO, National Council of Jewish Women**

*“This report and the documentation ensures that no effort to whitewash or airbrush away the crimes of October 7 can occur. The horror of these events are there for everyone to read – if they have the courage and fortitude.*

**—Mr. Rahm Emanuel**

*“This new report presents the harrowing pattern of brutality visited upon hundreds of innocent Israelis on that fateful and bloody day, focusing on the targeting of the family unit for unique and compounded brutality. Each of the murders, rapes and other occurrences of physical and emotional atrocities are already well-established war crimes and crimes against humanity for which each of the perpetrators, accomplices and terrorist leaders – in Gaza and elsewhere – must be held accountable. The report focuses well-deserved attention on the depravity of the perpetrators singling out parents, children and grandparents for special torture. This must never be allowed to occur again.”*

**—Mr. Alan M. Schneider, Director, B’nai B’rith World Center-  
Jerusalem for B’nai B’rith International, an UN-accredited NGO**

*“The Kinocide report is a vital and urgent work that exposes the unspeakable atrocities perpetrated against the Jewish community on October 7th—an assault not only on lives but on the Jewish values of home, love, and family. As a Jewish leader, I deeply appreciate this report’s commitment to giving voice to the victims and shining a light on this unprecedented evil. It is a call to action for justice, humanity, and the protection of the sacred bonds that define us all.”*

**—Ms. Julie Platt, Chair of the Board of Trustees of the  
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Macdonald-Laurier Institute

The Lantos Foundation for Human Rights & Justice

Younes & Soraya Nazarian Family Foundation



## Special Message for Readers

The following analysis describes acts of violence, by necessity employing detailed and graphic language at times. This content may be emotionally challenging for some readers, particularly survivors of violent crimes and atrocities.

***“... and then mom  
died on top of me.”***

**(Rotem Matias, 16)**



Photo by the Civil Commission (Kfar Aza, Jun 16, 2024)

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Photo by the Civil Commission (Kfar Aza, Jun 16, 2024)

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The Raoul Wallenberg Centre for Human Rights (RWCHR) contributed to this report by providing insights that link the discussed events to the broader global context. These contributions enhance our understanding of the global human rights landscape and the significance of these events, highlighting that the weaponization of family is a historical phenomenon. The RWCHR is an international, non-governmental organization based in Montreal, inspired by the remarkable humanitarian legacy of Raoul Wallenberg, a Swedish hero who saved tens of thousands of Jews during the Holocaust. Built upon five core pillars dedicated to pursuing justice, each embodies Wallenberg's extraordinary commitment to humanity. Among these pillars lies a vital focus on atrocity prevention, underscoring our unwavering dedication to safeguarding human dignity.

We owe a special debt of gratitude to Ms. Hadas Eilon-Carmi, Ms. Nili Bar-Sinai, Ms. Irit Lahav, and Mr. Shachar Givon.

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We extend our gratitude to our Board, Ms. Einat Reich and Ms. Tamar Elad Appelbaum. We also deeply appreciate the invaluable guidance and expertise of our Advisory Board, which has been instrumental in shaping the direction and outcomes of this report, including Ms. Sheryl Sandberg, Prof. Irwin Cotler, Ms. Caryl S. Englander, Ms. Mimi Rocah, Ms. Dorothy Tananbaum, Ms. Dominique Levy, and Prof. Michelle Greenberg-Kobrin.

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We dedicate this report to all the families—those whose names appear within these pages and those who remain in the shadows but are no less present in our hearts. Honoring and preserving their narratives is not just our responsibility—it is our guiding principle, a reminder of the resilience of the human spirit and the importance of bearing witness.

To the families who have endured unimaginable loss and pain, we dedicate this work to your courage, your strength, and your truth.





Photo by the Civil Commission (Kfar Aza, Jun 16, 2024)

## Preface

### Dr. Cochav Elkayam-Levy

*“So little needed; For a home; To cease to be, To crumble, To return to dust.”*  
—David Grossman

On October 7, 2023, we found ourselves caught in a harrowing glimpse of hell. It was a fear so existential that I often say that October 7 was the day we lost our basic sense of security—the ability to feel safe and protected, in our homes, in our communities. We were thrust into a horror that defies comprehension; it was real, visceral, celebrated—broadcasted for the world to see. It took months of documenting the crimes committed against women and children—witnessing the horrors with our own eyes—reviewing countless testimonies and other materials, mainly shared by Hamas, to begin to understand that what we were witnessing was a crime that had not yet been defined. A crime without a name.

We began to identify the deliberate and systematic targeting of families: parents murdered or executed in front of their children, children abducted or killed in the presence of their siblings and parents, family members violently torn from one another, entire homes destroyed and burned with families trapped inside. We found ourselves almost physically unable to witness the crimes. This was no random act of violence; it was a calculated, strategic assault on the very concept of family. The attacks were designed not just to kill, but to shatter families, to exploit and destroy the foundational emotional bonds that give us strength, and to do so in the most horrifying ways imaginable to magnify suffering. Even family pets were not spared. The very violence that shattered

these families and communities was turned into a spectacle on social media, often exploiting the victims' own personal accounts—serving as a haunting reminder of their torment, now etched into the public domain, ensuring their pain endures for generations.

Family homes, once sanctuaries of love and safety, turned into sites of terror. The scale and specificity of this violence were so staggering that we reached out to colleagues worldwide who work on documenting and addressing atrocities. Gradually, we came to understand that a new term was needed to fully capture the depth of the evil we were witnessing. We chose kinocide—a portmanteau of the prefix kin (family or relative) with the suffix cide (targeted destruction or killing) to describe a systematic and widespread attack directed against families, the exploitation of familial bonds to intensify suffering, and the targeted destruction of the family unit. Kinocide is the destruction of families as a specific, identifiable weapon of war, aimed at terrorizing and breaking the spirit of kins and entire communities.

The atrocities that occurred inside the homes of countless families reflect a broader, more pervasive threat posed by violent forces in the twenty-first century, transforming families from a source of love, safety, and unity into a site of devastation, despair, and multi-generational trauma. Testimonies collected for this report express that unique evil. One mother recalls the unbearable moment when her bloodied son turned to her and asked, “Why didn’t they kill me?” after witnessing the murder of his father alongside his little brother. Another boy recounts the harrowing moments when he hid, injured, under his mother’s body and next to his father’s, after the perpetrators invaded their home. It was only when they returned to burn the house that he managed to escape. Another recounts how her home, once a sanctuary, was violently transformed into a site of terror. These stories of loss, brought in the voices of survivors, demand not only our attention, but also our moral reckoning. Beyond any legal recognition, kinocide represents a distinct and unparalleled suffering, one that must be named and understood to honor its victims and give language to what they have endured.

In naming this crime, we stand on the shoulders of giants. Raphael Lemkin, as described so powerfully by Samantha Power, recognized that to confront a crime, the world must first name it. His definition of genocide forced humanity to reckon with the deliberate destruction of cultural, ethnic, and national groups. Similarly, feminist scholars like Catharine MacKinnon, whose groundbreaking work has revealed the pervasive nature of gender-based violence, also exposed its manifestation in conflict—not as a series of isolated acts, but as a deliberate and strategic tool of war and genocide. MacKinnon’s work underscores that naming these atrocities is the first step to confronting them—because when violence remains unnamed, it is allowed to persist, invisible, silenced, and unchallenged.

Naming kinocide follows this important canon. It seeks to give voice to an agony long endured but never fully acknowledged. Families are not incidental victims of war—they are its deliberate targets. And when families are shattered, the suffering is not simply individual; it reverberates across generations, cultures, and societies. To name kinocide is to recognize this suffering and to demand justice for the victims and accountability for those who perpetrate it. We must challenge the reigning forces of violence that glorify the destruction of families and the exploitation of their bonds. October 7 demonstrated the urgency of this recognition. The violence inflicted that day weaponized the trust, love, and intimacy that define familial bonds, transforming them into instruments of terror. To witness such acts, even through documentation, was to confront the depths of human cruelty.

In partnership with the Raoul Wallenberg Centre for Human Rights, we show that the weaponization of families is a global phenomenon evident in both historical and contemporary conflicts that continues to develop and spread at a rapid pace in different conflict zones around the world. From Iraq to Syria, Rwanda to Bosnia and Herzegovina, Myanmar to Sri Lanka, Sierra Leone, Russia, and Ukraine, the weaponization of families has shattered millions of families and communities across the world. It echoes the horrors of the Holocaust, the Armenian Genocide, and other atrocities throughout history.

This report is more than a chronicle of the horrors of October 7. It is a call to action. It demands that the world recognizes kinocide as a unique crime, a strategy born of a unique evil. It urges us to give victims the language they need to describe their suffering, to honor their experience, and to ensure their pain is neither ignored nor forgotten. This report is offered in that spirit. It is both a testament to the unspeakable and a demand for justice.

Let it serve as a beacon for all those who believe in the values of humanity and the resilience of the human spirit. Only then can we begin to repair what has been broken and build a world where women, children, and families can flourish in safety and dignity.

My prayer is for the safe return of all hostages, that they be reunited with their families and find the strength to heal from the unimaginable trauma they have endured. I pray, too, for healing, peace, and dignity for all who have been affected, and for a future where human rights are respected, and no one is left in fear. May compassion guide our actions, and may peace emerge from this darkness.

**—Dr. Cochav Elkayam-Levy,**  
Chair of the Civil Commission on October 7th Crimes  
by Hamas against Women and Children

# Executive Summary

*“I see [my sons] in their underwear, bloodied from head to toe. I wouldn’t wish upon any mother to see her children in that condition . . . . Koren looks at me and says, ‘Mom. . . Dad is dead. They killed Dad. Dad is dead. Why didn’t they kill me? Why didn’t they kill me?’”*

—The Commission’s interview with Sabine Taasa, Nativ Ha’asara

On Saturday morning, October 7, 2023, during a Jewish holiday, Hamas and its collaborators launched a widespread attack against Israel’s civilian population, killing more than 1,200 people and kidnapping more than 250 into Gaza. This report reveals a particularly insidious and often overlooked aspect of the attack: **the weaponization of families**. The report examines evidence of the attack, with a particular focus on the kibbutzim (cooperative Israeli agricultural communities) and other residential communities where families were subjected to extreme and unique forms of brutality and violence. Hamas led an organized attack, infiltrating residential areas, neighborhoods, small communities, and family homes. The perpetrators inflicted severe physical and psychological injuries on family members. They killed parents, siblings, and grandparents in the presence of each other. They violently kidnapped families, including infants and young children, from their homes, and held them hostage, often just moments after they witnessed the murder of their loved ones. They also forcibly separated families—husbands from wives, siblings from each other, and children from parents—both during the attack and in captivity. The following are the main conclusions of this report:

- **The October 7 events included a widespread and systematic targeted attack directed against the family unit.** The report highlights the abuse of families and finds clear and convincing evidence of at least six consistent and repetitive patterns, which in conjunction with the distinct timing and circumstances of the attack, suggest the October 7 attack on families was widespread and systematic, exploiting familial bonds and emotional ties to maximize pain and suffering. Hamas intruded into the intimate and vulnerable familial spaces, transforming them from a sphere of inviolability and safety to a site of terror, subjugation, and mortal danger. The identified patterns are: a) committing acts of violence, including killing and severe injury, in the presence of other family members; b) eliminating entire family units; c) abduction and hostage-taking of families, including children; d) using digital and social media to broadcast abuses directly to the victims’ families and to the general public, including by commandeering victims’ own social media accounts; e) intentionally separating family members; f) and burning and vandalizing of family homes. Often, homes were set on fire with the families still seeking shelter inside. In some cases, their charred bodies were later discovered in the rubble. These acts resulted in a profound breakdown of family bonds and community life. With grandparents, parents, and children still held hostage, and Hamas concealing information about their fate and condition, the families’ anguish persists, as they await their return.
- **Hamas and its collaborators made strategic use of digital and social media to exert and intensify harm.** The perpetrators used social media, including victims’ own accounts, to broadcast and share their acts with the closest circle of family and friends, and to the general public. The digital display of suffering and murder of family members significantly expanded the reach of the perpetrated harm and magnified the psychological trauma of the victims and their loved

ones. Hamas' use of such digital forms of violence persists beyond October 7, and continues to this day, thus prolonging and exacerbating the impact of the attack, undermining family stability, and aggravating emotional distress and trauma beyond the initial acts of brutality. Furthermore, it generates deep and enduring trauma and consequences for the impacted communities and society as a whole.

- **The nature of systematic attacks on families forms a unique harm.** Systematic attacks on families are *sui generis*; they are qualitatively different from other forms of violence. The family is the most fundamental unit of human society. Familial relationships are among the most potent protective factors that help people overcome adversity and trauma. Conversely, when the family unit is compromised and impacted by violent forces, the individual is stripped of this vital protective shield. The outcomes are singularly destructive, expansive, and protracted, rippling through all life facets. This report presents international case law and research suggesting that attacks on families lead to profound and lasting adverse outcomes to individuals, families, communities, and society as a whole, due to the family's role as the foundational unit of society. This vulnerability and distinct harm necessitate urgent, more robust protection for families.
- **The targeted weaponization of families warrants a new term: kinocide.** This report highlights the destructive impact of a systematic attack on families and the unique harm caused by the exploitation of familial bonds and dynamics. Accordingly, the report coins the term *kinocide*, which captures the unique evil that the weaponization of families entails and the distinct harm it inflicts.
- **Naming is important.** Naming a historically unrecognized phenomenon is essential to addressing it effectively, as evidenced by the global recognition of sexual violence as a weapon of war. Identifying and naming kinocide as such is key to protecting families and bringing attention to its existence. It not only serves as a powerful tool for ensuring justice and accountability, but also empowers victims by providing them with the language to encapsulate and describe the harm that they have endured and articulate their suffering, and offers them validation and a path to healing.
- **Targeted attacks on families are a global problem.** The report reveals that the weaponization of families is a global problem evident in various international contexts. Examples of such manifestations come from Iraq, Syria, Rwanda, Bosnia and Herzegovina, Myanmar, Sri Lanka, Sierra Leone, Russia, and Ukraine, as well as earlier occurrences in Nazi Germany and during the Armenian Genocide. These findings indicate that kinocide is not an isolated phenomenon confined to the events of October 7. It is a long-standing and pervasive challenge that has been present in both historical and contemporary conflicts and demands urgent action by the international community.
- **Current international criminal law does not offer sufficiently robust protections to families.** The family unit is a fundamental pillar of society and is comprehensively protected under international human rights law. However, current international criminal law (ICL) does not offer similarly robust protections to families. While existing ICL prohibitions, including those on killing civilians, hostage-taking, and torture are applicable, they do not adequately capture the unique evil that the targeted weaponization of families and the exploitation of familial bonds entails.



- **Kinocide should be integrated into international criminal law.** This report presents the conceptual and legal basis for the integration of kinocide into both existing ICL frameworks, and the recognition of kinocide as a new international crime. It specifies four concrete ways in which to integrate kinocide into existing ICL frameworks as (1) a crime against humanity, (2) a war crime, (3) a form of genocide, and (4) a form of torture. Finally, the report proposes a general outline for defining kinocide as a distinct crime and recommends a more comprehensive codification of this crime through the creation of new legal instruments, including the Draft Crimes Against Humanity Treaty.
- **Addressing the weaponization of families and recognizing kinocide as a new international crime is urgently needed to ensure protection, prevention, and accountability.**

This report establishes a foundation for an in-depth examination of kinocide and its impact on families, particularly within the context of widespread and systematic assaults. Further analysis and discourse must occur, prompting the international community and national governments to address the complexities associated with targeted abuse of families and exploitation of familial bonds and dynamics. Recognizing and criminalizing this phenomenon is crucial, as it poses a threat not only to families but also to modern nations, entire communities and ethnic groups, thereby undermining the very foundations of societies.

# Introduction

On the morning of October 7, 2023, Hamas launched a concerted and widespread attack against the civilian population of Israel. While the attack and its aftermath have rightly received considerable attention, some distinctive aspects of the attack remain overlooked and are not yet widely recognized. This report brings to the forefront one such aspect: the systematic and targeted attack directed against families, which we have termed *kinocide*.<sup>1</sup> The report reveals the abuse and exploitation of the uniquely strong bonds that exist between family members, with the apparent aim to inflict extreme pain and magnify the suffering and trauma of the victims, their families, communities, and society as a whole.

The Idan family of Kibbutz Nahal Oz is one among many whose peaceful lives were shattered on October 7. That morning, the perpetrators invaded the family's home. As the family tried to hide in their saferoom, the perpetrators shot and killed eldest daughter Maayan, age 18, in front of her father Tsachi, her mother Gali, her 11-year-old sister Yael, and her nine-year-old brother Shahar.<sup>2</sup> The surviving members of the family were then forced outside at gunpoint, as the parents attempted to shield the children with their bodies.<sup>3</sup> The perpetrators commandeered the mother's Facebook account and live-streamed the entire ordeal for the family's loved ones to witness in real time.<sup>4</sup> The video shows the family members clinging to one another as they digest the death of their daughter and sister.<sup>5</sup> The children's fear, their facial expressions, and their trembling bodies reveal the depth of their terror. At one point, the perpetrators attempted to separate Shahar from the rest of the family.<sup>6</sup> Shortly after, Tsachi was forcibly separated from his family and taken hostage into Gaza.<sup>7</sup> As of the writing of this report, Tsachi has been held hostage for more than a year. Gali and the surviving children continue to suffer the psychological trauma associated with not knowing his fate.<sup>8</sup>

The ongoing work of the Civil Commission on October 7 Crimes Against Women and Children ("the Commission") reveals, as outlined in this report, that while the circumstances and experiences of each family are unique, Hamas and its collaborators<sup>9</sup> systematically used similar tactics and methods of operation, as those employed at the Idan family home, in residential communities across the southern region of Israel. Hamas and its collaborators attacked family after family, household after household, community after community. They victimized young and old, men, women, and children.

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1 Cochav Elkayam-Levy & Irwin Cotler, *Kinocide: Hamas Targeting of Families Is a New Crime Against Humanity*, TIMES OF ISRAEL (May 22, 2024), <https://www.timesofisrael.com/kinicide-a-new-crime-against-humanity/>; Rebecca Melnitsky, *Human Rights Expert Documenting New Kind of War Crime in Oct. 7 Attacks on Israel*, NYSBA (June 24, 2024), <https://www.nysba.org/human-rights-expert-documenting-new-kind-of-war-crime-in-oct-7-attacks-on-israel/>; Ruth Marks Eglash, *Hamas' Oct 7 Massacre Has Legal Scholars Creating New War Crime Category*, FOX NEWS (June 11, 2024), <https://www.foxnews.com/world/hamas-oct-7-massacre-has-legal-scholars-creating-new-war-crime-category>.

2 Interview with Gali Idan: Yigal Mosko, "Tzachi's Photos Pop Up on a Daily Basis": The Daughter Murdered and The Father Kidnapped—The Tragedy of the Idan Family, N12 NEWS (Oct. 25, 2023), [https://www.mako.co.il/news-israel/2023\\_q4/Article-c492f8253436b81027.htm](https://www.mako.co.il/news-israel/2023_q4/Article-c492f8253436b81027.htm). See also Wolf Blitzer, *Hostage Family Member Tells Wolf She Can't Grieve Her Daughter's Death While She Fights to Bring Her Husband Home*, CNN (Aug. 16, 2024), <https://www.cnn.com/tv/video/sitroom-gali-idan-part-two-8-16-24>.

3 Mosko, *supra* note 2.

4 Footage archived with the Commission. See also Mosko, *supra* note 2.

5 Footage archived with the Commission. See also Mosko, *supra* note 2.

6 Footage archived with the Commission. See also Mosko, *supra* note 2.

7 Footage archived with the Commission. Mosko, *supra* note 2. See also Blitzer, *supra* note 2.

8 Blitzer, *supra* note 2.

9 Hamas, in its attack on Israel, was aided by collaborators of different kinds. Some were members of other armed groups, such as the Palestinian Islamic Jihad and the Democratic Front for the Liberation of Palestine; others were Gazan civilians. See, e.g., Human Rights Watch, *'I Can't Erase All the Blood from My Mind': Palestinian Armed Groups' October 7 Assault on Israel*, 10–12, 29–35, 204–10 (July 17, 2024), <https://www.hrw.org/report/2024/07/17/i-cant-erase-all-blood-my-mind/palestinian-armed-groups-october-7-assault-israel>; *id.*, 3, 9, 12, 205, 233–34. For the purpose of this report, Hamas collaborators, regardless of their formal affiliation, are referenced as *collaborators*. This term refers to all persons who, on October 7 and subsequently, voluntarily committed atrocities against Israeli citizens and residents.

Entire families were subjected to severe harm as well as psychological and physical destruction.

Reviewing and analyzing large volumes of materials, the Commission's team identified clear, recurring, and methodical patterns of operation of the October 7 attack that were specifically directed against families, indicated the organized nature of the attack. These include the forced separation of families; killing and/or severe injury of family members in front of their loved ones; deliberate destruction of entire familial lineages; abduction and hostage-taking of children and family members; the use of social media and live streams to widely disseminate the atrocities to the general public and directly to the victims' loved ones, including the use of the victims' own social media accounts; and the burning and extreme vandalism of family homes, often while families were still hiding inside.

As delineated throughout this report, these clear repetitive and systematic patterns and the circumstances of their commission, including methodical violent invasions of family homes, strongly imply that Hamas and its collaborators strategically and knowingly directed their attack against families, exploiting familial emotional ties, innate familial dynamics, and interdependencies among family members. The report demonstrates that the perpetrators violated and weaponized the family unit—the most fundamental unit of society, vital to one's emotional support and stability—to inflict and intensify terror, pain, and suffering. These acts resulted in profound devastation of families and communities, as well as breakdown of family bonds and community life, which is still ongoing, as hostages are still held captive by Hamas and its collaborators. The hostages' suffering and their families' anguish continues as they remain in Gaza. Such acts not only assault each individual's dignity and human rights, but also severely disrupt societal cohesion and weaken a nation as a whole. By examining various tactics, we reveal the threat to families and the urgent need to protect them.

This report ultimately proposes the establishment of a new concept and international crime, which we have coined as *kinocide* – *giving the crime a name and the victims a voice*. The term connotes the deliberate abuse and weaponization of families<sup>10</sup>—to precisely articulate the unique harm perpetrated on families and to capture the profound evil it represents.<sup>11</sup> As is demonstrated in subsequent sections, *kinocide*, as a new international crime, should be adopted through its integration into existing legal instruments. Additionally, it may warrant recognition as a standalone international crime to comprehensively address existing protection gaps.<sup>12</sup>

The term *kinocide* stems from a combination of the prefix “kin,” which means family or relative, with the suffix “cide,” which means targeted destruction or killing. Kinocide, as described herein, refers to a systematic or widespread targeted attack against families. It denotes the exploitation of the uniquely strong bonds between family members to intensify the suffering and trauma of the

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10 To advance a fruitful public discourse among researchers, jurists and academics, the Commission's research team is also in the advance stages of developing a forthcoming law review article that will elaborate on the pivotal legal issues involving the definition and implementation of the crime of kinocide. Throughout this report, we have used the terms *weaponization* and *victimization* of families interchangeably to denote the overarching strategy of systematically abusing and targeting families to maximize terror and harm to individuals, communities, and society as a whole. We also often use the word *abuse* to refer to specific acts of violence that exploit unique familial dynamics and relationships to inflict and exacerbate suffering.

11 Eglash, *supra* note 1; Melnitsky, *supra* note 1.

12 Similar to the growing movement to recognize ecocide as a distinct crime, in addition to acknowledging environmental harm as a war crime or crime against humanity. See, e.g., Stop Ecocide Foundation, *Independent Expert Panel for the Legal Definition of Ecocide Commentary and Core Text* (June 2021).

<https://static1.squarespace.com/static/5ca2608ab914493c64ef1f6d/t/60d1e6e604fae2201d03407f/1624368879048/SE+Foundation+Commentary+and+core+text+rev+6.pdf>

victims, to fracture familial relationships, and to diminish cohesion within the family unit, as well as within the broader community or society at large.<sup>13</sup> The aims of such destruction may vary, and the attack against families may involve targeting them through, among other possible methods, killings, torture, family separation, hostage-taking, and other inhumane treatment. Similar to genocide, it does not necessarily mean the immediate physical destruction of entire families but is intended to denote various forms of targeted violence directed against the family unit (i.e., violence that exploits the unique bonds and emotional ties among family members).<sup>14</sup> Furthermore, the actual infliction of death or serious bodily harm should not be requisite. In other words, “destruction” encompasses physical, psychological, and emotional harm.

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<sup>13</sup> See Elkayam-Levy & Cotler, *supra* note 1.

<sup>14</sup> The mental element, or *mens rea*, of the crime of kinocide should be given significant weight in both academic and judicial contexts. It is beyond the scope of this report to definitively determine the required *mens rea*, however, the report addresses this topic in more detail in Section V. For the sake of clarity, throughout the report we use terms denoting apparent intent (e.g., deliberate, targeted, etc.).



Photo by the Civil Commission (Nir Oz, Jun 19, 2024)

October 7 was not the first instance where signs of systematic abuse and weaponization of families have emerged.<sup>15</sup> Targeted violence against families has reportedly occurred over the past few decades in countries such as Iraq,<sup>16</sup> Syria,<sup>17</sup> Rwanda,<sup>18</sup> Bosnia and Herzegovina,<sup>19</sup> Myanmar,<sup>20</sup> Sri Lanka,<sup>21</sup> Sierra Leone,<sup>22</sup> Russia, and Ukraine,<sup>23</sup> as well as much earlier, including Nazi Germany and the Armenian Genocide.<sup>24</sup> However, while international human rights law (IHRL) and human rights tribunals offer some protection to families,<sup>25</sup> the specific form of violence presented in this report—characterized by the deliberate violation and abuse of families, and exploitation of familial bonds—has not yet been named, nor adequately addressed by the international community or recognized as a distinct crime. As a result, significant gaps remain in protection, prevention, and accountability.

This report presents multiple assertions. Primarily, it emphasizes the unique harm experienced by families attacked by Hamas and its collaborators on October 7, which has not been sufficiently acknowledged in reports on Hamas's crimes or the legal frameworks of international criminal tribunals addressing similar attacks. Moreover, it is our position that the assaults on families outlined in this report constitute several violations of international law, including crimes against humanity, war crimes, and genocide. Given the exceptional and singular harm inflicted on families by Hamas and its collaborators that this report uncovers, it is imperative that legal analyses related to these crimes adequately reflect and underscore this particular form of atrocity. Finally, we invite consideration

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15 For further discussion of past and present instances of kinocide, see Section IV.

16 See e.g., US Department of State, *Iraq: Population silenced* (Dec. 2002), <https://2001-2009.state.gov/g/drl/rls/15996.htm>.

17 See e.g., Peter Krause, Emil Aslan Souleimanov & David S. Siroky, *Kin Killing: Why Governments Target Family Members in Insurgency, and When It Works*, 31 *SEC. STUD.* (2022); Amnesty International, *Between Prison and the Grave: Forced Disappearances in Syria*, 7, 48-51 (Nov. 2015), [https://www.amnesty.org.uk/files/embargoed\\_between\\_prison\\_and\\_the\\_grave\\_final.pdf](https://www.amnesty.org.uk/files/embargoed_between_prison_and_the_grave_final.pdf).

18 See e.g., Human Rights Watch, *Join Us or Die: Rwanda's Extraterritorial Repression*, 92-106 (Oct. 2023), <https://www.hrw.org/report/2023/10/10/join-us-or-die/rwandas-extraterritorial-repression>; Patricia A. Weitsman, *The Politics of Identity and Sexual Violence: A Review of Bosnia and Rwanda*, 30(3) *HUM. RTS. Q.* 561 (2008).

19 Weitsman, *supra* note 18; Dragica Kozarić-Kovačić, et al., *Rape, Torture, and Traumatization of Bosnian and Croatian Women: Psychological Sequelae*, 65(3) *AM. J. ORTHOPSYCH.* 428 (1995), <http://dx.doi.org/10.1037/h0079656>.

20 See e.g., Amnesty International, *Myanmar 2023*, <https://www.amnesty.org/en/location/asia-and-the-pacific/south-east-asia-and-the-pacific/myanmar/report-myanmar/>.

21 See e.g., Rebekka Friedman & Hanna Ketola, *Violations of the Heart: Parental Harm in War and Oppression*, 50(2) *REV. INT'L STUD.* 393, 407-10 (2024), <https://doi.org/10.1017/S0260210523000499>.

22 See e.g., *The Prosecutor vs. Tylor*, SCSL-03-T-1283, 346-47, paras 872, 876 (Judgment, 2003).

23 See e.g., Amnesty International, *Russia: Authorities Targeting Children in Their Crusade Against Antiwar Dissent* (May 2024), <https://www.amnesty.org/en/latest/news/2024/05/russia-authorities-targeting-children-in-their-crusade-against-anti-war-dissent/>.

24 See e.g., Julia Chaitin & Dan Bar-On, *Emotional Memories of Family Relationships During the Holocaust*, 7(4) *J. LOSS TRAUMA* 299 (2002); Katharine Dederian, *Common Fate, Different Experience: Gender-Specific Aspects of the Armenian Genocide, 1915-1917*, 19(1) *HOLocaust GENOCIDE STUD.* 1, 5, 8 (2005). We have not expounded upon the Holocaust in Section IV, since the magnitude and complexity of the atrocities demand a more elaborate analysis.

25 Recognition of the family as the fundamental unit of society can be found in the Universal Declaration of Human Rights (UDHR) (art. 16(3)), International Covenant on Civil and Political Rights (art. 23 (1)), the International Covenant on Economic, and Cultural Rights (art. 10 (1)), the Convention on the Rights of the Child (fifth preambular paragraph), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (art. 44 (1)) and the Convention on the Rights of Persons with Disabilities (preamble, para. x); see also A/HRC/31/37. For a comprehensive analysis of international instruments pertinent for the protection of families under international human rights law, see Fareda Banda & John Eekelaar, *International Conceptions of the Family*, 66(4) *INT'L COMPAR. L. Q.* 833-62 (2017), <https://doi.org/10.1017/S0020589317000288>. For protection of families against violence or separation by international human rights tribunals and courts, see, e.g., Human Rights Committee, Communication No. 1889/2009, UN Doc No CCPR/C/110/D/1889/2009, 110th Sess. (2014) at paras 3.7-3.8, 7.4-7.12; Human Rights Committee, Communication No 2214/2012, 115th session, UN Doc No CCPR/C/115/D/2214/2012, 2015 at paras 3.7, 3.9, 6.7; Human Rights Committee, Communication No 2077/2011, 115th Sess. 2015, UN Doc No CCPR/C/115/D/2077/2011 at paras 2.4, 2.9, 2.10, 3.7-3.9, 8.5; Human Rights Committee, Views adopted by the Committee under art. 5(4) of the Optional Protocol, concerning communication No. 2731/2016, 2021, UN Doc No CCPR/C/130/D/2731/2016 at paras 3.5, 6.1-7; Human Rights Committee, Views adopted by the Committee under art. 5(4) of the Optional Protocol, concerning communication No. 2615/2015, 2022, UN Doc No CCPR/C/132/D/2615/2015 at paras 3.5, 7.1-7.7; Human Rights Committee, Views adopted by the Committee under art. 5(4) of the Optional Protocol, concerning communication No 2790/2016, 2023, UN Doc No CCPR/C/137/D/2790/2016 at 3.8, 6.3-8; IACtHR, *Case of Fornéron and daughter v. Argentina, Merits, Reparations, and costs*, Judgment of Apr. 27, 2012, Series C No 242 at paras 46-47, 112, 116, 124; I/A Court H.; I/A Court H.R., *Case of the Río Negro Massacres v. Guatemala. Preliminary Objection, Merits, Reparations, and Costs. Judgment of Sept. 4, 2012. Series C No. 250 at paras 139-150; I/A Court H.R., Case of Rochac Hernández et al. v. El Salvador. Merits, Reparations and Costs. Judgment of Oct. 14, 2014. Series C No. 285 at paras 110-117. See also Fionnuala Ní Aoláin, *Position of the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on the human rights of adolescents/juveniles being detained in North-East Syria*, United Nations Human Rights Special Procedures (2021), [https://www.ohchr.org/Documents/Issues/Terrorism/SR/UNSRCT\\_Position\\_human-rights-of-boys-adolescents-2021\\_final.pdf](https://www.ohchr.org/Documents/Issues/Terrorism/SR/UNSRCT_Position_human-rights-of-boys-adolescents-2021_final.pdf).*



of the notion that the distinct nature and severe harms associated with the attacks against families may justify the establishment of a new international crime, defined here as *kinocide*.

The report contends that international criminal law (ICL) must be amended to address such atrocities effectively. It argues that it is essential to develop new conceptual frameworks that can effectively tackle the ramifications of targeted violence against families, and enable better prevention, accountability, protection and appropriate remedies for its victims. The report urges the international community to adopt *kinocide* as a crime against humanity, a war crime, one of the enumerated acts of genocide, and a form of torture.

Lastly, this report is rooted in the urgent need to address the profound impacts of October 7, 2023, on women and children in Israel. While the focus of this report remains on these communities and their experiences, we recognize that tragedy reverberates beyond borders. Innocent lives in Gaza, including children, women, and men, have also faced immense suffering, loss, and displacement. We unequivocally condemn violence against civilians, regardless of where it occurs. This report calls for urgent and decisive measures to protect all vulnerable populations, ensuring their safety, dignity, and rights in accordance with international humanitarian and human rights standards.

The report consists of eight sections. **Section I** establishes the report's factual infrastructure. It identifies distinct patterns of operation employed by Hamas and its collaborators in their attacks against families on October 7. Additionally, it assesses whether the attack is more likely to have been a randomized mass killing or an intentional attack directed toward families. **Section II** explains the distinct characteristics and significance of the family unit from a sociological, psychological, and cultural lens and outlines the specific harms that result from the breakdown of families. **Section III** examines the robust protection of the family unit under existing IHRL. **Section IV** puts *kinocide* in a global context, showing that although previously unnamed, the phenomenon of victimization and weaponization of families is neither new nor unique to the October 7 attack. It showcases how ICL made tentative steps to address this problem, providing foundations on which we seek to build. **Section V** presents a road map for a potential solution, conceptualizing *kinocide* and establishing the legal foundations for its recognition and adoption. **Section VI** proposes how this can be achieved using existing legal instruments as well as creating new ones. **Sections VII** and **VIII** close the report with conclusions and recommendations, respectively.

# Methodology

This report's legal analysis addresses factual sequences surrounding the events and circumstances of the October 7 attack pertaining to families. To make such factual determinations, the Commission undertook a comprehensive review of a substantial volume of materials documenting aspects of Hamas's attack.<sup>26</sup> This included photographs, video footage, audio recordings, satellite images, text messages exchanged as the attack unfolded, recorded testimonies,<sup>27</sup> media coverage, and investigative reports. We routinely utilized public databases, the most instrumental among them being the open-access database and customized data outputs generated by the civil initiative led by data expert Dr. Yuval Harpaz and his team.<sup>28</sup> Harpaz's database compiles and cross-references multiple official and unofficial independent data sources, is supported by geolocation verifications, and is considered one of the most comprehensive and accurate datasets capturing the October 7 victims and casualties.<sup>29</sup>

The analysis, information gathering, and documentation tasks underlying this report were guided by the overarching principles, guidelines, standards, protocols, and best practices acceptable in the field.<sup>30</sup> In its work on the report, the Commission adhered to the principles of independence, impartiality, objectivity, transparency, confidentiality, integrity, and professionalism.<sup>31</sup> Unwavering attention was given to the principle of "do no harm"; the necessity to adopt evidence-based trauma-informed approaches and strategies; and the prioritization of the well-being, safety, and dignity of survivors, victims, and their families.<sup>32</sup>

The Commission's investigators and analysts conducted in-person fact-finding visits to several sites of the attack and the impacted communities between June and November 2024. This included visits to Kfar Aza, Nir Oz, Be'eri, Re'im, Holit, and the site of the Nova Music Festival.<sup>33</sup> The Commission also gathered and cross-referenced relevant information beyond the onsite visits, and interviewed survivors, family members of the victims, firsthand witnesses, individuals who were actively communicating with the victims over the course of the attack, first responders, and medical providers.

The Commission conducted over 55 formal and informal interviews with survivors and first responders of the October 7 attack.<sup>34</sup> The interviews were held between February and November

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26 The Commission's research and documentation teams have reviewed over 2,000 photographs and videos segments, including repeated viewings to enable the analysis of the footage, which totaled in over 1,000 hours of viewing.

27 Research of credible open-source materials, including survivor interviews and survivor testimonies (documentation projects including materials of the National Library, USC Shoah Foundation, Edut 710, Kan 11, Uvda etc.).

28 Sagi Or & Yuval Harpaz, *Death Locations of 1203 Murdered and Fallen During the Hamas Attack on Israel Between 7–9.10.2023*, [https://yuval-harpaz.github.io/alarms/oct\\_7\\_9.html](https://yuval-harpaz.github.io/alarms/oct_7_9.html). See also Revital Hoval, *There Are Two Hostages You Have Never Heard Of: An Interview With The Person Who Tracks Them* (Jan. 18 2024) <https://www.ha-makom.co.il/post-revital-yuval>.

29 The database is used by multiple official and non-governmental agencies, and will be incorporated into the Israeli National Library Public Database. Sagi Or, Yuval Harpaz & Keren Yalin-Mor, *Mapping the Tragedy: Building a Documentary Database of Massacre Victims*, 5 *Remembrance and Research* (Oct. 2024).

30 Office of the United Nations High Commissioner for Human Rights (hereinafter OHCHR), *Commission of Inquiry and Fact-Finding Mission on International Human Rights and Humanitarian Law: Guidance and Practice 33–35* (2015), [https://www.ohchr.org/sites/default/files/Documents/Publications/CoI\\_Guidance\\_and\\_Practice.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/CoI_Guidance_and_Practice.pdf);

31 OHCHR, *supra* note 30; Berkeley Protocol on Digital Open Source Investigations (2022), [https://www.ohchr.org/sites/default/files/2024-01/OHCHR\\_BerkeleyProtocol.pdf](https://www.ohchr.org/sites/default/files/2024-01/OHCHR_BerkeleyProtocol.pdf).

32 See, e.g., reporting of the Commission's work process: Irit Gazit, *Children of Trauma: How Not to Document Pain*, *TIMES OF ISRAEL* (Nov. 3, 2024), <https://blogs.timesofisrael.com/children-of-trauma-how-not-to-document-pain/>; OHCHR, *supra* note 30.

33 Visits to Kfar Aza (June 16, 2024), Nir Oz (June 19, 2024), Be'eri (July 1, 2024), Re'im (Apr. 15, 2024), the Nova Music Festival site (June 19, 2024), and Holit (Oct. 22, 2024). Visit summaries and findings are archived with the Commission.

34 Meetings and interviews were conducted with survivors and families from Sderot, Re'im, Kfar Aza, Be'eri, Nir Oz, Netiv Ha'asara, Holit, and

2024, and were conducted primarily in Hebrew, which is the native language of most of the interviewees.<sup>35</sup> Informed consent was secured prior to the commencement of the interviews.<sup>36</sup> The Commission's efforts to interview and document the experiences of the attack's survivors and relatives is ongoing. In October and November 2024, the Commission's team also reached out to all the families whose names are explicitly mentioned in this report to verify consent and accuracy.<sup>37</sup> Additional interviews were conducted with representatives from the impacted communities.<sup>38</sup>

To ensure factual accuracy, the Commission established methodical fact-checking protocols including measures to avoid errors and misinformation, and to maximize accuracy. First, whenever possible, our fact-finding process relied on the perpetrators' own extensive video documentation and body-cam footage, whether live streamed during the attack, posted online and on social media by Hamas and its collaborators soon after, or found on cameras recovered at the scenes.<sup>39</sup> Priority was also given to other primary sources, including footage taken at the sites of the attack, surveillance camera footage, and live text messaging and audio recordings.<sup>40</sup> Second, we supported, expanded, and cross-referenced primary sources with testimonies and interviews with survivors and witnesses who reported their lived experiences.<sup>41</sup> Lastly, we used references from interviews and investigative reports published in the media to complement our findings. This report does not rely on any information obtained through state interrogations. In all cases, factual determinations relied on multiple independent sources that were compared and cross-referenced to verify all factual details.

The content of digital materials, including photographs, videos, and audio files, was scrutinized and analyzed against verified events and factual sequences, information obtained from survivors' testimonials and interviews, and other sources, as outlined above. The digital visuals were also evaluated in relation to the remains and artifacts at the sites of the attack, which were observed and documented during the Commission's site visits. The Commission worked closely with its own forensic experts and benefited from their experience and advice. The Commission's analysis and verification process had to account for the fact that a large number of the video files, especially those uploaded to social media by the perpetrators, were not raw footage, but were curated, cut, or pre-edited by Hamas and its collaborators.

To preserve, store, and catalog the large volume of collected information and evidence from different sources and formats, the Commission created a secure archive (the "Commission's archive").<sup>42</sup> To guarantee the highest professional standards in the field, the Commission consulted with experts in evidence collection and open-source evidence to ensure authentication, verification,

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Nirim (Mar.–Oct. 2024), hospitals' senior staff, and Zaka volunteers (Feb. 21, Apr. 2024). Records of all the interviews conducted are archived with the Commission.

35 Interviews with medical and forensic experts and first responders at Abu Kabir National Center of Forensic Medicine and Shura Morgue identification staff (Apr. 9, 2024; May 21, 2024), Schneider Children's Medical Center senior staff (Apr. 16, 2024).

36 Signed consent forms are filed with the Commission.

37 Records are archived with the Commission. In two cases, the families could not be reached, and therefore their full names were omitted from the report.

38 Including the community representatives of Kfar Aza, Be'eri, Nir Oz, and Holit.

39 Video footage and still images are archived with the Commission.

40 The materials are archived with the Commission.

41 Meetings and interviews with survivors and community members from Kfar Aza, Be'eri, Nir Oz, Netiv Ha'asara, Holit, Nirim, and Re'im (Mar.–Nov. 2024).

42 The Commission's Archive is not limited to Oct. 7 crimes against families, but also includes materials, information and evidence on other aspects associated with the October 7 attack in its entirety.

and reliability.<sup>43</sup> All the materials presented in this report are filed with the Commission's archive. Most of the Commission's archived materials are deemed confidential to protect victims' privacy. To mitigate this challenge and enhance access to information, we referenced publicly available sources, whenever possible, to support the information provided in this report (although we do not necessarily endorse the opinion, legal assumptions, or conclusions communicated in those public sources).

All sources and factual sequences relating to violence against families were logged, coded, and mapped across time, geographical locations, households, and family units, then compiled into a database ("the Commission's database"). The database is exclusive to the Commission's work and represents the comprehensive documentation and research it has undertaken on crimes committed against families. A significant component of the database consists of entries from the investigation and research into the specific circumstances of over 140 families (representing more than 450 individuals), of which at least one member was killed or taken hostage, and therefore could be clearly identified in reliable public records. The Commission's investigations are ongoing, and the logged information is constantly updated and analyzed, with the ultimate goal of compiling information pertinent to kinocide on all the families directly impacted by the October 7 attack and the patterns and modus operandi employed by Hamas.

Despite our best efforts to generate the most accurate and complete factual account, it is crucial to stress that multiple investigations into the precise details of the October 7 events are still unfolding, and new facts and evidence continuously emerge. The full sequence of events will take a long time to come to light. It is also likely that some details will forever remain unknown. Some of the victims who bore witness to the October 7 events and their loved ones' deaths are still held hostage by Hamas and its collaborators—some are battling trauma and injuries, and many others were murdered that day.<sup>44</sup> Moreover, Hamas operatives and collaborators methodically destroyed a significant portion of the evidence by setting fire to houses. Mounting evidence shows that many family homes were set ablaze, often with families still seeking shelter inside.<sup>45</sup>

Additionally, many testimonies come from individuals who endured severe trauma and are still deeply affected by it. Consequently, their accounts may sometimes lack details or contain inconsistencies. The psychological impact of trauma can affect memory recall, leading to gaps or contradictions in their stories.<sup>46</sup> This factor is especially important to consider during ongoing conflict, where the chaotic environment can further exacerbate these issues.<sup>47</sup> Therefore, it is crucial to approach these accounts with sensitivity and care. Despite these challenges, it is essential to carefully analyze victims' testimonies to gain a clearer understanding of their experiences and

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43 Including: Dr. Yuval Harpaz, Mr. Sagi Or, Dr. Keren Yalin-Mor; the Commission's forensic experts (former senior police officers); Microsoft experts; and consultation meetings with the director of the Abu Kabir National Center of Forensic Medicine (Apr. 9, 2024) and a military intelligence expert (June 10, 2024).

44 See Human Rights Watch, *'I Can't Erase All the Blood from My Mind': Palestinian Armed Groups' October 7 Assault on Israel*, 196–200, (2024), <https://www.hrw.org/report/2024/07/17/i-cant-erase-all-blood-my-mind/palestinian-armed-groups-october-7-assault-israel>.

45 See, e.g., *id.* at, 1, 110, 166–67, 171, 212, 221.

46 John C. Yuille & Judith Daylen, *The Impact of Traumatic Events on Eyewitness Memory*, in *Eyewitness Memory* (Charles P. Thompson, et al., eds., 1998); Kenneth A. Deffenbacher, et al., *A Meta-analytic Review of the Effects of High Stress on Eyewitness Memory*, 28(6) *LAW HUM. BEHAV.* 687 (2004); Landy F. Sparr & J. Douglass Bremner, *Post-Traumatic Stress Disorder and Memory: Prescient Medicolegal Testimony at the International War Crimes Tribunal?* 33(1) *J. AM. ACAD. PSYCH. L.* 71 (2005). See also *The Prosecutor v. Jean-Paul Akayesu* (Judgement), ICTR-96-4-T, International Criminal Tribunal for Rwanda (ICTR), Sept. 2, 1998, <https://ucr.irmct.org/LegalRef/CMSDocStore/Public/English/Judgement/NotIndexable/ICTR-96-04/MS15217R0000619817.PDF>.

47 Nigel C. Hunt, *Memory, War & Trauma* (2010).



the harm they endured. Accounting for the experiences of survivors remains vital for addressing the root causes and impacts of conflict, underscoring the need to consider the effects of trauma while striving to grasp the full scope of the abuses. Thus, the information presented in this report reflects the most accurate and reliable accounts available to us at the time of writing, based on the abovementioned methodologies and safeguards.

Notably, this report specifically focuses on the directed attack on families by Hamas and its collaborators on October 7 and its aftermath. The scope of this report is limited to families impacted by the attack in the residential communities in southern Israel, including the villages, kibbutzim (cooperative Israeli agricultural communities), and towns invaded during the attack (“the communities”). Though outside the scope of this report, it should be noted that substantial evidence exists that families were impacted and harmed at multiple other sites outside the communities, including on the traffic intersections and roads in the area, the Zikim beach and campsite, and the Nova and other music festivals.<sup>48</sup>

Furthermore, given the Commission’s mandate to investigate the impacts of October 7, 2023, on women and children in Israel, this report is focused on Israel’s communities, where the repercussions of that day were significantly experienced. Yet, it is important to acknowledge that our anguish over the October 7 attack has not blinded us to the fact that innocent children, women, and men in Gaza are suffering gravely. Tragically, many have been killed, and many more have been injured, displaced, or experienced other forms of loss. They merit the full measure of our empathy and compassion as well as urgent measures of protection. The report’s focus on the former should not diminish the profound urgency and importance of all aspects of this tragedy.

In this report, we refer to two or more relatives who were together in the same physical space when the attack took place or when encountering the perpetrators as a “family.” We apply a broad interpretation to the term, in accordance with common practices in IHRL.<sup>49</sup> This may include nontraditional family structures, such as single parents, nonbiological guardians, or LGBTQ+ intimate partnerships.<sup>50</sup>

To reach our conclusions, this report employed a specific evidentiary standard of clear and convincing evidence. This standard signifies that the circumstances in question are not just *slightly* more likely to be true than false, but rather that “significantly more evidence supports the finding and limited information suggests the contrary.”<sup>51</sup>

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48 See Section I.

49 For instance, we refer to families as such, whether the familial relationships between their members were established by blood, adoption, marriage, or alternative forms of partnership, and regardless of the legal status of these relationships. For a broad interpretation of the term family in international law see, e.g., Section III; *The Prosecutor v. Dominic Ongwen* (Reparations Order), ICC-02/04-01/15, International Criminal Court (ICC), Feb. 28, 2024, ¶¶ 129–133, <https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd18078e195.pdf> [hereinafter *Ongwen Reparations Order*]; *Young v. Australia*, Human Rights Committee, Communication No. 941/2000 (CCPR/C/78/D/941/2000), paras. 10.4.

50 See generally, OHCHR, *Born Free and Equal: Sexual Orientation, Gender Identity and Sex Characteristics in International Human Rights Law*, HR/PUB/12/06/Rev.1 (2nd ed. 2019), [https://www.ohchr.org/sites/default/files/Documents/Publications/Born\\_Free\\_and\\_Equal\\_WEB.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/Born_Free_and_Equal_WEB.pdf); OHCHR, *Living Free and Equal: What States are doing to tackle violence and discrimination against lesbian, gay, bisexual, transgender and intersex people* (2016), <https://www.ohchr.org/sites/default/files/Documents/Publications/LivingFreeAndEqual.pdf>.

51 See, Stephen Wilkinson, *Standards of Proof in International Humanitarian and Human Rights Fact-Finding and Inquiry Missions* (Geneva Academy of International Humanitarian Law and Human Rights 2012) <https://www.geneva-academy.ch/joomlatools-files/docman-files/Standards%20of%20Proof%20in%20Fact-Finding.pdf>

# I. Facts & Patterns

*“The terrorists opened the doors, shot, and threw in a grenade that exploded. The last thing my dad said was that he lost his arm, and then my mom died on top of me...”*

—**Rotem Matias (Holit)**

This section examines the modus operandi of Hamas and its collaborators on October 7, pertaining to families and residential communities impacted by the attack. Subsection I.A presents patterns of operation that were repeated across the area of the attack, and that were systematically directed toward families.<sup>52</sup> Subsection I.B then assesses whether the actions of Hamas and its collaborators were more likely to have been spontaneous and randomized mass killings, or rather an intentional, preplanned strategic operation aimed at the systematic abuse of families.

## A. Patterns of Operation

Our evidentiary review enabled us to identify several patterns of operation that appear to intentionally and knowingly exploit the distinct dynamic and significance of the family unit to cause and magnify physical and emotional harm.<sup>53</sup> Each of these patterns were documented to appear in multiple communities across several geographical locations, as specified below. Moreover, similar patterns were also observed in other parts of the world,<sup>54</sup> and were recognized by tribunals in international case law, as further discussed in Section IV.<sup>55</sup> It should be noted that this list, while comprehensive, is not meant to be exhaustive.

### i. The killing and infliction of physical injury as other family members bear witness

As the case of the Idan family (mentioned in the introduction) demonstrates, mothers, fathers, brothers, sisters, and grandparents were systematically killed and/or injured as other family members bore witness. These experiences were documented in at least ten different communities.<sup>56</sup>

The trauma continued beyond the moment of attack as family members attempted to keep injured loved ones alive for many hours under impossible conditions, often watching them die. In many cases, young children bore the responsibility of assisting their injured parents and siblings. For example, eight-year-old Gefen Dymshits of Holit testified how she had to tend to her younger sister's wounds, while her mother held her special-needs brother to keep him silent.<sup>57</sup> The girls describe how they saw an armed perpetrator peeking through a hole in the window and aiming his gun directly at them.<sup>58</sup>

<sup>52</sup> It should be noted that this list of patterns is not exhaustive. Moreover, due to the nature and circumstances of the acts, the outlined patterns are not mutually exclusive and have some overlaps.

<sup>53</sup> These patterns were also observed in other parts of the world. See Section IV.

<sup>54</sup> See Section IV.

<sup>55</sup> See, e.g., *Ongwen Reparations Order*, supra note 49, 261, 268–69. See generally, Sections IV–V.

<sup>56</sup> Be'eri, Holit, Kfar Aza, Nahal Oz, Nir Oz, Ofakim, Re'im, Yakhini, Kissufim, Netiv Ha'asara (based on the Commission's database).

<sup>57</sup> Testimony of the Dymshits family (Holit): *Who Has Heard of Holit? The Kibbutz That Remains in the Shadows*, Channel 13, <https://13tv.co.il/item/documentary/movies/l9qfd-904048286/> (accessed Sept. 14, 2024); Miri Ben-David, *Ella and Yosef Who Were Injured with Their Grandchildren United in Tears: "She Has a Will to Win,"* YNET (Nov. 16, 2023), <https://www.ynet.co.il/health/article/s1qy3kfet>. Also supported by Phone interview with Anat Dymshits (Nov. 7, 2024), record archived with the Commission.

<sup>58</sup> Phone interview with Anat Dymshits (Nov. 7, 2024), record archived with the Commission. See also: Testimony of the Dymshits family (Holit): *Who Has Heard of Holit? The Kibbutz That Remains in the Shadows*, CHANNEL 13, <https://13tv.co.il/item/documentary/movies/l9qfd-904048286/> (accessed Sept. 14, 2024); Miri Ben-David, *Ella and Yosef Who Were Injured with Their Grandchildren United in Tears: "She Has a Will to Win,"* YNET (Nov. 16, 2023), <https://www.ynet.co.il/health/article/s1qy3kfet>.

Also in Holit, Rotem Matias (16) had to inform his sisters about the death of their parents he had just witnessed over text messages, as he remained hiding under his mother's lifeless body.<sup>59</sup> "Mom and Dad are dead. Sorry," his sister recounted the words her brother texted in the aftermath of the attack.<sup>60</sup> In an interview from his hospital bed, Rotem said, "The terrorists opened the doors, shot, and threw in a grenade that exploded. The last thing my dad said was that he lost his arm, and then my mom died on top of me ... I just stopped my breathing and lowered it down as much as I possibly could. I didn't move. I was terrified, and I didn't make any noise... And I prayed for any God, I didn't really care which God. I just prayed for a God that they won't find me."<sup>61</sup>

In another case, Roe Idan, a father in Kfar Aza, was shot and killed while holding his three-year-old daughter, Abigail, in his arms, with his two older children witnessing the murder.<sup>62</sup> Their mother, Smadar, was also shot and killed in front of them.<sup>63</sup> After seeing their parents murdered, two of the children hid in a closet beside their mother's dead body for hours, waiting for help.<sup>64</sup> Meanwhile, they were uncertain about the fate of their younger sister, Abigail, who fled to another house and was later abducted into Gaza.<sup>65</sup>

At the Goldstein-Almog home in Kfar Aza, the perpetrators first shot the father, Nadav, before the eyes of his wife and four children (ages nine to 19).<sup>66</sup> As the mother and children were violently removed from their home to be abducted into Gaza, the perpetrators also shot the family's eldest daughter, Yam, in the face, killing her.<sup>67</sup>

*“Carmel understands that he’s not going to recover from this. He’s already at the end. He tells me, ‘Dad, when you bury me, bury me with my surfboard.’”*

**—Avida Bachar (Be’eri)**

Our analysis has identified a substantial number of cases in which Hamas and its collaborators practiced “selective killing,” where some members of a family were selected to be murdered while others were intentionally kept alive. In Holit, four-year-old Eshel Kaploun told his father how his mother, Adi, tried to protect his four-month-old brother (Negev) from the perpetrators, and then “she was gone.” The children were kept alive, while the mother was shot and killed. It was reported that the mother's last words to her sons were, “Remember, mommy loves you more than anything

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59 See interview with Rotem Matias' sisters: *Who Has Heard of Holit? The Kibbutz That Remains in the Shadows*, Channel 13, <https://13tv.co.il/item/documentary/movies/19qfd-904048286/> (accessed Sept. 14, 2024).

60 See interview with Rotem Matias' sisters: *Who Has Heard of Holit? The Kibbutz That Remains in the Shadows*, Channel 13, <https://13tv.co.il/item/documentary/movies/19qfd-904048286/> (accessed Sept. 14, 2024).

61 Multiple phone interviews and written correspondence with Rotem Matias' legal guardian (Aug-Sep 2024), interview records archived with the Commission. See also: interviews with Rotem Matias soon after he was rescued: James Longman, et al, *Israeli-American Teen Recalls Seeing Parents Die During Hamas Attack*, ABC News (Oct. 11, 2023), <https://abcnews.go.com/International/israeli-american-teen-recalls-parents-die-hamas-attack/story?id=103886183>; Lauren Mascarenhas, *Israeli-American Teenager Who Was Shot in a Hamas Attack that Killed His Parents Tells CNN He Will Keep the Bullet in Memory of Their Lives*, CNN (Oct. 12, 2023), <https://edition.cnn.com/2023/10/12/us/rotem-matias-teenager-hamas-attack/index.html>. Rotem remained in that position, silent after being shot, until the Hamas perpetrators came back to set the house on fire. At that point, he had to leave and find a new place to hide. He was eventually rescued and survived the attack. <https://abcnews.go.com/International/israeli-american-teen-recalls-parents-die-hamas-attack/story?id=103886183>.

62 An investigative report on the Idan family's case: Abigail's New Life, Uvda, Mako News (Feb. 22, 2024), [https://www.mako.co.il/news-israel/2024\\_q1/Article-e282f491092dd81027.htm](https://www.mako.co.il/news-israel/2024_q1/Article-e282f491092dd81027.htm).

63 *Id.*

64 *Id.*

65 *Id.*

66 Agam Goldstein-Almog's testimony appears in the documentary film *Screams Before Silence*, <https://www.youtube.com/watch?v=zAr9oGSXgak> (2024).

67 *Id.*

in the world.”<sup>68</sup> The perpetrators then filmed themselves with the children, widely shared the video over social media, and used it for propaganda. They then attempted to abduct the children into Gaza.<sup>69</sup> Similarly, at the Berdichevsky’s home in Kfar Aza, perpetrators shot and killed the two parents while leaving their 10-month-old twins to fend for themselves.<sup>70</sup> At the Karp family home in Reim, 10-year-old Daria and her younger brother hid for hours in a room with the dead bodies of their father and his girlfriend, who were shot in front of them.<sup>71</sup> The perpetrators selectively killed the parents while keeping the children alive, leaving a message on the wall: “Al-Qasam do not kill children.”<sup>72</sup> A three-hour phone conversation with their mother, while in hiding, was audio recorded and captured the distress, fear, and helplessness the family experienced.<sup>73</sup> It is important to clarify that strong evidence shows that children were not spared on October 7, as many children were violently murdered or kidnapped into Gaza that day.<sup>74</sup>

*“I heard another shot, and I was hugging Adi again and lying in the pool of blood that had formed there and waiting for my bullet. I was with Adi for 43 years – we raised children together, we dreamed together, we formed a kibbutz here together, a community, a relationship, a family. What’s left? Nothing. Nothing. My man, my partner, is gone. On October 7th, it all ended.”*

**—Hadas Dagan (Be’eri)**

In some situations where families managed to lock themselves in their saferooms, Hamas and its collaborators entered the houses and shot through saferoom doors and windows, knowing the family was inside, causing injury and death. As a result, many families witnessed their loved ones suffering severe wounds, dying slowly, or being killed.<sup>75</sup> One example is 13-year-old Hadar Bachar of Be’eri, who fought for over 12 hours to save her severely injured father, mother, and brother.

68 Interview (in person) with Yaron Vital (Adi Vital’s father) (Aug. 26, 2024), record archived with the Commission; Interview (in person) with Jackie Vital (Adi Vital’s mother) (Sep. 1, 2024), record archived with the Commission; Investigative and media reports on the Kaploun case (Holit), including an interview with the father, Anani Kaploun, where he shared the information relayed to him by his four-year-old son Eshel: *Channel 13 Report About the Kaploun Family*, <https://www.youtube.com/watch?v=AEUvYtfGP9g> (accessed Sept. 14, 2024); *Who Has Heard of Holit? The Kibbutz That Remains in the Shadows*, CHANNEL 13, <https://13tv.co.il/item/documentary/movies/l9qfd-904048286/> (accessed Sept. 14, 2024); *The Children that the Terrorists Cruelly Documented Moments After Killing Their Mother*, CHANNEL 13, <https://www.youtube.com/watch?v=l-9gVx783bE> (accessed Sept. 14, 2024).

69 Interview (in person) with Yaron Vital (Adi Vital’s father) (Aug. 26, 2024), records archived with the Commission; Interview (in person) with Jackie Vital (Adi Vital’s mother) (Sep. 1, 2024), records archived with the Commission; Investigative and media reports on the Kaploun case (Holit), including an interview with the father, Anani Kaploun, where he shared the information relayed to him by his four-year-old son Eshel: *Channel 13 Report About the Kaploun Family*, <https://www.youtube.com/watch?v=AEUvYtfGP9g> (accessed Sept. 14, 2024); *Who Has Heard of Holit? The Kibbutz That Remains in the Shadows*, CHANNEL 13, <https://13tv.co.il/item/documentary/movies/l9qfd-904048286/> (accessed Sept. 14, 2024); *The Children that the Terrorists Cruelly Documented Moments After Killing Their Mother*, CHANNEL 13, <https://www.youtube.com/watch?v=l-9gVx783bE> (accessed Sept. 14, 2024).

70 Norah O’Donnell, *Israeli Couple Who Were Killed Protecting Their Twin Babies From Hamas Gunmen ‘Were Heroes,’ Family Says*, CBS NEWS (Oct. 13, 2023), <https://www.cbsnews.com/news/israeli-couple-killed-protect-twin-babies-hamas-gunmen-hadar-itai-berdichevsky-kfar-aza-kibbutz/>.

71 Interview (in person) with Reut Karp (Aug. 2, 2024), record archived with the Commission; Phone interview with Reut Karp (Aug. 1, 2024), record archived with the Commission; Audio recordings are archived with the Commission. See also interview with Reut Karp, Daria’s mother, describing the events: *I Can’t Believe This Is Our Story: Reut Karp Returns to the Black Sabbath*, CHANNEL 13, <https://13tv.co.il/item/news/haolam-haboker/season-01/clips/tbrvm-904009275/> (accessed Sept. 14, 2024).

72 Interview (in person) with Reut Karp (Aug. 2, 2024), record archived with the Commission; Phone interview with Reut Karp (Aug. 1, 2024), record archived with the Commission. See also Yifat Menhardt, *Heard Her Daughter Report That Her Father Was Murdered in Front of Her Eyes: She Wrote to Me ‘Help.’* YNET (Oct. 9, 2023), <https://www.ynet.co.il/laisha/article/hyizb1z116>.

73 Interview (in person) with Reut Karp (Aug. 2, 2024), record archived with the Commission; phone interview with Reut Karp (Aug. 1, 2024), archived with the Commission; audio recordings archived with the Commission. See also interview with Reut Karp, Daria’s mother, describing the events: *I Can’t Believe This Is Our Story: Reut Karp Returns to the Black Sabbath*, CHANNEL 13, <https://13tv.co.il/item/news/haolam-haboker/season-01/clips/tbrvm-904009275/> (accessed Sept. 14, 2024).

74 Based on the Commission’s database. Also see specific information on children at: Israeli National Council for Children, *Children in the ‘Iron Swords’ War*, <https://www.children.org.il/wp-content/uploads/2024/03/%D7%A4%D7%A8%D7%A7-%D7%9E%D7%AA%D7%95%D7%9A-%D7%99%D7%9C%D7%93%D7%99%D7%9D-%D7%91%D7%99%D7%A9%D7%A8%D7%90%D7%9C-2023.pdf> (Accessed Spt. 14, 2024).

75 Based on the Commission’s database.





Photo by USAID (Be'eri Feb 28, 2024)

The perpetrators shot and threw grenades at the family's saferoom.<sup>76</sup> Audio recordings capture Hadar's attempts to call for help and report the injuries. She describes in detail her efforts to save her parents and brother.<sup>77</sup> Her father survived but lost his leg. Her mother and 15-year-old brother bled to death in front of their family.<sup>78</sup>

While the long-term trauma associated with witnessing the violent injury or death of a family member is well-established in scientific studies,<sup>79</sup> no words are needed to explain the fear, helplessness, pain, and distress caused by witnessing the assault, injury, and killing of one's nearest kin.

76 Phone interview with Avida Bachar (Aug. 12, 2024), records archived with the Commission. See also: Interviews with Hadar Bachar (Be'eri): *13-Year-Old Israeli Shares How She Hid During the Hamas Attack on Her Kibbutz*, I24 NEWS ENGLISH, [https://www.youtube.com/watch?v=JoddL\\_RYL1M](https://www.youtube.com/watch?v=JoddL_RYL1M) (accessed Sept. 14, 2024); Jonathan Rieger, *I Told Her – the Mother Is Not in Pain Anymore: The Tragedy of the Bachar Family from Kibbutz Be'eri*, MAKO NEWS (Oct. 16, 2023), <https://www.mako.co.il/news-military/6361323ddea5a810/Article-2b5226aab063b81027.htm>.

77 Phone interview with Avida Bachar (Aug. 12, 2024), records archived with the Commission. See also: Interviews with Hadar Bachar (Be'eri): *13-Year-Old Israeli Shares How She Hid During the Hamas Attack on Her Kibbutz*, I24 NEWS ENGLISH, [https://www.youtube.com/watch?v=JoddL\\_RYL1M](https://www.youtube.com/watch?v=JoddL_RYL1M) (accessed Sept. 14, 2024); Jonathan Rieger, *I Told Her – the Mother Is Not in Pain Anymore: The Tragedy of the Bachar Family from Kibbutz Be'eri*, MAKO NEWS (Oct. 16, 2023), <https://www.mako.co.il/news-military/6361323ddea5a810/Article-2b5226aab063b81027.htm>.

78 Phone interview with Avida Bachar (Aug. 12, 2024), records archived with the Commission. See also: Interviews with Hadar Bachar (Be'eri): *13-Year-Old Israeli Shares How She Hid During the Hamas Attack on Her Kibbutz*, I24 NEWS ENGLISH, [https://www.youtube.com/watch?v=JoddL\\_RYL1M](https://www.youtube.com/watch?v=JoddL_RYL1M) (accessed Sept. 14, 2024); *I Told Her – the Mother Is Not in Pain Anymore: The Tragedy of the Bachar Family from Kibbutz Be'eri*, MAKO NEWS (Oct. 16, 2023), <https://www.mako.co.il/news-military/6361323ddea5a810/Article-2b5226aab063b81027.htm>.

79 S. Burman & P. Allen-Meares, *Neglected Victims of Murder: Children's Witness to Parental Homicide*, 39(1) SOC. WORK 28 (1994), <https://pubmed.ncbi.nlm.nih.gov/8310320/>; Spencer Eth & Robert S. Pynoos, *Developmental Perspective on Psychic Trauma in Childhood*. In: *Trauma and Its Wake* (1985); Carl C. Bell & Esther J. Jenkins, *Traumatic Stress and Children*, 2(1) J. HEALTH CARE FOR POOR AND UNDERSERVED 175 (1991); Jane F. Knapp, *The Impact of Children Witnessing Violence*, 45(1) PEDIATRIC CLINICS N.A.M. 355 (1998).

## ii. Eliminating all family members present

Hamas and its collaborators executed every family member present in the household in cases reported in at least eight communities,<sup>80</sup> sometimes extinguishing entire family units. One example is the Kutz family—the perpetrators shot and killed a mother, father, and three children. Their bodies were found in their bedroom still embracing each other.<sup>81</sup> Another example is the Kedem Siman Tov family, who were all killed in the saferoom of their home in Nir Oz. The victims included Tamar (35), her husband Yonatan “Johnny” (36), their five-year-old twin daughters Shahar and Arbel, and their two-year-old son Omer.<sup>82</sup> Johnny’s mother, Carol Siman Tov, was also murdered in her home nearby.<sup>83</sup>

*“I remember when we passed by Dad; I looked at him. I saw him lying with his hands up and taking his last breaths. So it was as if I was holding on to those breaths. I said, there were breaths, so maybe he was fighting it, maybe he was pretending...”*

—Agam Goldstein (Kfar Aza)

## iii. Hostage-taking of children and family members

On October 7, 251 individuals were taken hostage.<sup>84</sup> Among them were 37 families<sup>85</sup> and 41 children, ranging in age from four-and-a-half months to 17 years, who were violently abducted from their homes.<sup>86</sup> Thirty-six of these children were taken into Gaza and held hostage there (the remaining five escaped or were abandoned before crossing the border).<sup>87</sup> The abduction of children under age 18 took place in six different communities.<sup>88</sup> The perpetrators killed the parents of many of these children before their eyes, moments before their abduction.<sup>89</sup> The abduction of children is a

80 Be’eri, Holit, Kissufim, Netiv Ha’asara, Nahal Oz, Nir Oz, Ofakim, and Kfar Aza (based on the Commission’s database).

81 See media reports on the Kutz family story: Yaron Steinbuch, *Israeli Family of Five Were Found Dead in an Embrace after Hamas Terror Attack*, N.Y. Post (Oct. 16, 2023), <https://nypost.com/2023/10/16/israeli-family-of-five-found-dead-in-an-embrace-after-hamas-attack/>.

82 See Rich Calder, *Chilling Final Texts of Israeli American Family Murdered by Hamas Revealed: ‘They’re Here,’* N.Y. Post (Oct. 14, 2023), <https://nypost.com/2023/10/14/israeli-american-family-murdered-by-hamas-final-texts-revealed/>; Lee Yaron, *Eleven Families The October 7 Victims Include Kibbutzniks and Bedouins, Leftists and Liberals, Guest Workers and Activists. These Are Their Stories*, NEW YORK MAGAZINE (Oct. 19, 2023), <https://nymag.com/intelligencer/2023/10/the-story-of-11-families-who-were-victims-of-hamas.html>; Carrie Fellner, *They Told Friends in Sydney They Were Safe. Then This Entire Family Was Massacred*, SYDNEY MORNING HERALD (Oct. 10, 2023), <https://www.smh.com.au/world/middle-east/they-told-friends-in-sydney-they-were-safe-then-this-entire-family-was-massacred-20231009-p5eayv.html>.

83 See Rich Calder, *Chilling Final Texts of Israeli American Family Murdered by Hamas Revealed: ‘They’re Here,’* N.Y. Post (Oct. 14, 2023), <https://nypost.com/2023/10/14/israeli-american-family-murdered-by-hamas-final-texts-revealed/>; Lee Yaron, *Eleven Families The October 7 Victims Include Kibbutzniks and Bedouins, Leftists and Liberals, Guest Workers and Activists. These Are Their Stories*, NEW YORK MAGAZINE (Oct. 19, 2023), <https://nymag.com/intelligencer/2023/10/the-story-of-11-families-who-were-victims-of-hamas.html>; Carrie Fellner, *They Told Friends in Sydney They Were Safe. Then This Entire Family Was Massacred*, SYDNEY MORNING HERALD (Oct. 10, 2023), <https://www.smh.com.au/world/middle-east/they-told-friends-in-sydney-they-were-safe-then-this-entire-family-was-massacred-20231009-p5eayv.html>.

84 US Department of Defense, *Statement by Secretary of Defense Lloyd J. Austin III Marking One Year Since Hamas’s October 7th Terrorist Assault on the State of Israel* (Oct. 7, 2024), <https://www.defense.gov/News/Releases/Release/article/3927710/statement-by-secretary-of-defense-lloyd-j-austin-iii-marking-one-year-since-ham/>; Human Rights Watch, *‘I Can’t Erase All the Blood from My Mind’: Palestinian Armed Groups’ October 7 Assault on Israel* (2024), <https://www.hrw.org/report/2024/07/17/i-cant-erase-all-blood-my-mind/palestinian-armed-groups-october-7-assault-israel>; Dr. Yuval Harpaz data output, archived with the Commission.

85 While children are particularly vulnerable to extreme situation of abduction and captivity, and their cases symbolically mark and illustrate the deliberate attack on family, it is imperative to note to hostage-taking in any form is unequivocally condoned. During the October 7 attack elderly grandparents, mothers, fathers and children were abducted and taken hostage. Some of them are still held in Gaza, for over a year. They are separated from their families, who experience severe anguish and anxiety, not knowing their fate or when/if they will be returned. For more discussion on this, see Section I.A.vi.

86 The vast majority of children were abducted from within their home, its immediate vicinity, or the homes of their neighbors to which they have escaped. In one known case, a family, including a child, were abducted from the vicinity of their workplace (Holit).

87 Based on the Commission’s database and public records. See, e.g., *Abducted: The Names, the Faces, the Stories*, YNET, <https://www.ynet.co.il/news/absent?externalurl=true> (accessed Sept. 14, 2024); Israeli National Council for Children, *Children in the “Iron Swords” War*, <https://www.children.org.il/wp-content/uploads/2024/03/%D7%A4%D7%A8%D7%A7-%D7%9E%D7%AA%D7%95%D7%9A-%D7%99%D7%9C%D7%93%D7%99%D7%9D-%D7%91%D7%99%D7%A9%D7%A8%D7%90%D7%9C-2023.pdf> (Accessed Spt. 14, 2024). Note that the commonly published number is 42, which differs from our count, includes individuals over age 18, but does not include children who were abducted but for various reasons did not reach Gaza.

88 Nir Oz, Nahal Oz, Be’eri, Kfar Aza, Holit, Nir Yitzhak (based on the Commission’s database).

89 See, e.g., the Goldstein-Altomog family: *Screams Before Silence* <https://www.youtube.com/watch?v=zAr9oGSXgak> (accessed Sept. 14, 2024); the Idan family: *Abigail’s New Life*, Uvda, MAKO NEWS (Feb. 22, 2024), [https://www.mako.co.il/news-israel/2024\\_q1/Article-e282f491092dd81027](https://www.mako.co.il/news-israel/2024_q1/Article-e282f491092dd81027).

particularly symbolic and significant act of aggression due to the presumed innocence of children, their inherent vulnerability, their dependence on adult caregivers for their most basic needs, and the incomparable emotional attachment to their parents and vice versa.<sup>90</sup>

The perpetrators forced virtually all of the abducted children to separate from one or both parents prior to their abduction, during their time in captivity, or upon their release.<sup>91</sup> A third of the children were kidnapped completely alone,<sup>92</sup> without a parent. This group includes four-and-a-half-month-old Eshel Kaploun and his four-year-old brother Negev from Holit, whose mother was murdered (although the children were abandoned by their captives right before reaching Gaza),<sup>93</sup> and four-year-old Avigail of Kfar Aza, who witnessed the murder of her parents before being taken hostage.<sup>94</sup> Yagil (12) and Or (15) Yaakov were home alone when they were abducted. Their captors separated them from each other during their time in captivity and held them in separate locations.<sup>95</sup> The boys' father and his life-partner were taken hostage separately from their nearby home.<sup>96</sup> The father, Yair Yaakov was murdered.<sup>97</sup> Yagil describes this separation from his family as the most excruciating element of his captivity.<sup>98</sup> An additional seven children were forced to separate from both their parents and spent all or part of their time in captivity without a parent to care for them.<sup>99</sup> This group included Emma Cunio, a three-year-old separated at gunpoint from her twin sister Yuli and both her parents for ten days upon her abduction.<sup>100</sup> Further discussion on the abduction, hostage taking and separation of family members, including elderly grandparents, mothers and fathers, can be found below in Subsection I.A.vi.

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htm.; the Kaploun family: *Channel 13 Report About the Kaploun Family*, <https://www.youtube.com/watch?v=AEUvYtGP9g> (accessed Sept. 14, 2024); the Elyakim-Arava family: *The Sisters Dafna and Ella Elyakim, Who Were Kidnapped from Nahal Oz on Black Sabbath and Were Released from Captivity after 51 Days*, Kibbutz Nahal Oz, <https://www.youtube.com/watch?v=put-JtCqNIs> (accessed Sept. 14, 2024).

90 Sonja Starr & Lea Brilmayer, *Family Separation as a Violation of International Law*, 21 *BERKLEY J. INT'L L.* 213 (2003); Roger J.R. Levesque, Geraldine Van Bueren, *The International Law on the Rights of the Child*, 19 *FORDHAM INT'L L. J.* 832 (1995).

91 Based on the Commission's database.

92 Based on the Commission's database.

93 For unknown reasons, Eshel and Negev were abandoned by their abductors just before reaching Gaza. A neighbor escorted them back to their kibbutz on foot. Thus, they were abducted but were not held hostage. Supported by Interview (in person) with Yaron Vital (Adi Vital's father) (Aug. 26, 2024), records archived with the Commission; Interview (in person) with Jackie Vital (Adi Vital's mother) (Sep. 1, 2024), records archived with the Commission.

94 Ella Elyakim (8), Nahal Oz; Daphna Elyakim (15), Nahal Oz; Emily Hand (8), Be'eri; Avigail Idan (4), Kfar Aza; Negev Kaploun (4.5 months), Holit; Eshel Kaploun (4), Holit; Alma Or (13), Be'eri; Noam Or (17), Be'eri; Amit Shani (16), Be'eri; Gali Tarshansky (13), Be'eri; Yagil Yaakov (13), Nir Oz; Or Yaakov (15), Nir Oz (based on the Commission's database).

95 Yagil and Or's father and his spouse were kidnapped separately from their nearby home. Their father was killed in Gaza, his spouse, Merav Tal, was released. Their story was depicted in several interviews and media reports, see, e.g., *On the Way Home: Brothers Or and Yagil Were Released from Hamas Captivity, Their Father Was Left Behind*, YNET (Nov. 27, 2023), <https://www.ynet.co.il/news/article/sy4sidzs6>; *Renana Goma Yaakov Whose Two Sons Were Kidnapped: "I Heard Yagil Whisper That Someone Entered the House"*, OMNY (Dec. 4, 2023), <https://omny.fm/shows/kan-news/89a20fce-667c-410f-be14-b0ce00ad8a57>.

96 Footage is archived with the Commission. See also: Hadar Gil-Ad, *Merav Returned A Year Ago, The Body of Her Life-Partner Is In Gaza: "The Torture? Hell. Rehabilitation? Impossible"*, Ynet (Nov. 25, 2024), <https://www.ynet.co.il/news/article/sy115c2bqjl>;

97 Based on the Commission's database. See also: Jonathan Lis, *Kibbutz Nir Oz Announces Death of Resident Previously Thought to Be Held Hostage in Gaza*, Haaretz (Feb. 15, 2024), <https://www.haaretz.com/israel-news/2024-02-15/ty-article/kibbutz-nir-oz-announces-death-of-resident-previously-thought-to-be-held-hostage-in-gaza/0000018d-ae57-d070-a7fd-fe775b040000>.

98 Interview with Yagil Yaakov: *"I Felt Abandoned": 13-Year-Old Yagil Talks About His Time in Hamas Captivity*, All Israel News, <https://www.youtube.com/watch?v=KoMOpNW12IY> (accessed Sept. 14, 2024).

99 Yuval Angel (11), Nir Oz; Emma Cunio (3), Nir Oz; Erez Kalderon (12), Nir Oz; Sahar Kalderon (16), Nir Oz; Hila Rotem Shoshan (13), Be'eri; Eitan Yahalomi (12), Nir Oz; Aisha Ziadna (17), Holit (based on the Commission's database).

100 Phone interview with Sharon Cunio (Nov. 28, 2024), record archived with the Commission. Testimony of Sharon Cunio, Emma's mother: Michal Kalfan, *"Mother, No, Don't Die!" Sharon Aloni-Kunio Returns to Nir Oz and the Heartbreaking Recording*, MAKO NEWS (Apr. 6, 2024), [https://www.mako.co.il/news-military/2024\\_q2/Article-2c506d95f7edf81027.htm](https://www.mako.co.il/news-military/2024_q2/Article-2c506d95f7edf81027.htm).



#### iv. Using social media, broadcasting, and manipulation of information

A pattern that is less familiar from previous conflicts is the use of social media and live streaming to widely disseminate the atrocities to the public and directly to the victims' loved ones.<sup>101</sup> As the events of October 7 were unfolding, Hamas and its collaborators posted countless photographs and video footage of the massacre on social platforms such as Telegram, X (formerly known as Twitter), and Facebook. Some family members also received private messages, using the victim's phone, presumably sent by the perpetrators who captured them.<sup>102</sup> Many family members discovered the fate of their loved ones through such horrific images made public.<sup>103</sup> Many of the perpetrators involved in the attack wore GoPros and bodycams to document their actions.<sup>104</sup>

A video widely circulated by the perpetrators on social media showed the violent abduction of 12-year-old Erez Kalderon, all alone, after being separated from his father and older sister.<sup>105</sup> The video was shared right after the incident, and it was through this footage that his mother and older siblings learned that the perpetrators had kidnapped him.<sup>106</sup> In another case, the perpetrators filmed themselves seemingly feeding and playing with four-and-a-half-month-old Negev Kaploun and his four-year-old brother Eshel, immediately after killing their mother right in front of them. The footage was used for propaganda.<sup>107</sup> The perpetrators then kidnapped the children toward Gaza.<sup>108</sup>

In several cases Hamas and its collaborators commandeered their victims' own phones and social media accounts to post or live stream the brutalities as they unfolded.<sup>109</sup> The perpetrators posted footage of the body of a murdered elderly grandmother in Nir Oz on her Facebook account.<sup>110</sup> Her granddaughter described the extreme anguish she and her family experienced upon viewing the footage and discovering the news of her beloved grandmother's death on social media.<sup>111</sup>

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101 There are some previous examples of the use of similar tactics. One particularly well-known case is the ISIS publicly posted video of the execution of American journalist James Foley in 2014 (see, e.g., Chelsea J. Carter, *Video Shows ISIS Beheading U.S. Journalist James Foley*, CNN (Aug. 20, 2014), <https://www.cnn.com/2014/08/19/world/meast/isis-james-foley/index.html>).

102 For example, Ayelet Svatitzky was sent a photo on WhatsApp of her elderly mother (Channah Peri) and brother (Nadav Popplewell) with an armed perpetrator, at the time of their abduction, bearing the captions "Hamas" (see: Sam Greenhill & Eirian Jane Prosser, *British Woman Is Taunted by Hamas Terrorists Who Send Her a Picture of Her Mother and Brother Being Kidnapped—as They Killed Another of Her Siblings*, DAILY MAIL (Oct. 12, 2023), <https://www.dailymail.co.uk/news/article-12621333/British-woman-taunted-Hamas-terrorists-send-picture-mother-brother-kidnapped-killed-siblings.html>).

103 See, e.g., families' account: Alicia Victoria Lozano, Daniel Arkin and Melissa Chan, *Hostages in Israel Update: Families of Loved Ones Taken by Hamas Share Their Horrific Stories*, NBC NEWS (Oct. 9, 2023), <https://www.nbcnews.com/news/us-news/hamas-israel-hostages-tell-loved-ones-stories-rcna119509>; Frankie McCamley, et al., *Family Tell of Heartbreak After Israel Kidnap Live-Stream*, BBC NEWS (Oct. 17, 2023), <https://www.bbc.com/news/world-middle-east-67124745>

104 Footage is archived with the Commission. See also Casey Tolan et al., *Slain Hamas Militants' Body Camera Videos Show the Preparation and Tactics Behind Their Terror Attack in Israel*, CNN (Oct. 26, 2023), <https://www.cnn.com/interactive/2023/middleeast/hamas-attack-body-cam-videos-invs-dg/>; Oren Liebermann, *Bodycam Video Shows Early Moments of Hamas Massacre in Israel and Tunnels in Gaza*, CNN (Nov. 15, 2023), <https://www.cnn.com/2023/11/15/middleeast/bodycam-video-hamas-massacre-tunnels-intl/index.html>.

105 Footage is archived with the Commission. See also interviews with the Kalderon family: Yael Odem, *Sahar Kalderon: "Suddenly I See It Is My Father in the Tunnel, I Didn't Recognize Him"*, MAKO NEWS (July 19, 2024), [https://www.mako.co.il/news-n12\\_magazine/2024\\_q3/Article-809d838a82db091026.htm](https://www.mako.co.il/news-n12_magazine/2024_q3/Article-809d838a82db091026.htm).

106 Footage is archived with the Commission. See also interviews with the Kalderon family: Odem, *supra* note 105.

107 Footage is archived with the Commission. See also *Israel Channel 13 Documentary on How Hamas Murdered a Canadian Mother to Make a Propaganda Video*, uploaded by PShindman (accessed Sept. 14, 2024), <https://www.youtube.com/watch?v=o8EOWJ-DRMM>.

108 For unknown reasons that children were abandoned by the perpetrators before crossing the border into Gaza, and managed to reach help with the help of their neighbor who was kidnapped with them. Footage is archived with the Commission. See also *Israel Channel 13 Documentary on How Hamas Murdered a Canadian Mother to Make a Propaganda Video*, uploaded by PShindman (accessed Sept. 14, 2024), <https://www.youtube.com/watch?v=o8EOWJ-DRMM>.

109 Footage is archived with the Commission. For example, Arava family of Nahal Oz, Idan family of Nahal Oz, Bracha Levinson of Nir Oz, Angel family of Nir Oz. See also Sheera Frenkel & Talya Minsberg, *Hamas Hijacked Victims' Social Media Accounts to Spread Terror*, N.Y. TIMES (Oct. 17, 2023), <https://www.nytimes.com/2023/10/17/technology/hamas-hostages-social-media.html>; <https://13tv.co.il/item/news/domestic/internal/epbmn-903740978/>; Anna Schecter, *Why Can't Facebook Stop Hamas from Posting Grisly Videos of the Killing of Israeli Civilians?*, NBC NEWS (Nov. 1, 2023), <https://www.nbcnews.com/news/investigations/cant-facebook-stop-hamas-posting-grisly-videos-killing-israeli-civilia-rcna122966>.

110 See: Katherine Carroll et al., *Grandson Recounts Seeing Graphic Video of Beloved Grandmother Killed by Hamas Terrorists*, YAHOO NEWS (Oct. 13, 2023), <https://ca.news.yahoo.com/grandson-recounts-seeing-graphic-video-165249830.html>.

111 Footage is archived with the Commission. See also <https://www.facebook.com/watch/?v=848363830116057>.



The perpetrators live streamed their invasion of the home of the Elyakim-Arava<sup>112</sup> and the Idan<sup>113</sup> families of Nahal Oz on the mothers' social media accounts.<sup>114</sup> Their family members and loved ones described their shock and helplessness as they watched the agony, fear, and suffering experienced by the family.<sup>115</sup>

Hamas and its collaborators also repeatedly staged and distributed footage of hostages in captivity, often including emotional pleas and mentions of their families, causing harm to the hostages themselves and to their family members.<sup>116</sup> Twelve-year-old Yagil Yaakov was forced to record a video with messages dictated to him by his captors, which the perpetrators then broadcasted and distributed on social media.<sup>117</sup> In another case, the perpetrators informed Yarden Bibas that his wife and young sons (four-year-old Ariel and nine-month-old Kfir) were allegedly killed, then instructed him to share the news on video. They filmed him begging to be released so he can have the opportunity to bury his wife and children at home in Israel.<sup>118</sup> The video was widely shared on social media.<sup>119</sup> The truthfulness of the information regarding their deaths remains unconfirmed.<sup>120</sup> More recently, following the execution of six hostages in September 2024,<sup>121</sup> the perpetrators published a series of edited video segments of the executed hostages, after their death, with last messages directed to their families, further tormenting the grieving relatives.<sup>122</sup> To this day,<sup>123</sup> many similar videos of hostages still in captivity are continuously published and widely disseminated on social media by Hamas and its collaborators.<sup>124</sup>

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112 Footage is archived with the Commission. See also *The Horrific Video Taken by Hamas Terrorists of a Family—Moments Before Being Murdered*, KAN News, <https://www.youtube.com/watch?v=8dyVUwDu52k> (accessed Sep. 15, 2024).

113 Footage is archived with the Commission. See also Mosko, *supra* note 2; Blitzer, *supra* note 2.

114 Footage is archived with the Commission. See also *The Horrific Video Taken by Hamas Terrorists of a Family*, *supra* note 112.

115 Footage is archived with the Commission. See also *The Horrific Video Taken by Hamas Terrorists of a Family*, *supra* note 112; Frankie McCamley et al., *Family Tell of Heartbreak after Israel Kidnap Live-stream*, BBC (Oct. 17, 2023), <https://www.bbc.com/news/world-middle-east-67124745>.

116 Yoav Zeyton, *The IDF Found a Record of 8-Year-Old Ella Elyakim in Gaza Before Her Release: I Am a Prisoner of Hamas*, YNET (May 19, 2024), <https://www.ynet.co.il/news/article/s1qrt2px0>.

117 Footage is archived with the Commission. See also *Freed Gaza Hostage, 13, Reenacts Captivity Video in Plea to Bring Father Home*, JERUSALEM POST (Dec. 16, 2023), <https://www.jpost.com/israel-hamas-war/article-778316>; Catherine Philp, et al., *Video of Two Hostages Released by Allies of Hamas*, THE TIMES (Nov. 10, 2023), <https://www.thetimes.com/world/middle-east/article/israel-gaza-bombing-four-hour-pauses-joe-biden-n29wk6pth>.

118 Footage is archived with the Commission. See reporting at: [https://www.mako.co.il/news-israel/2024\\_q1/Article-1de49c2e3241d81027.htm](https://www.mako.co.il/news-israel/2024_q1/Article-1de49c2e3241d81027.htm). Interview with returned hostage Nili Margalit, who witness the relevant events: <https://allisrael.com/videos/nili-margalit-captured-with-yarden-bibas-refused-to-relate-news-of-his-family-s-alleged-death>.

119 Footage is archived with the Commission. See reporting at: [https://www.mako.co.il/news-israel/2024\\_q1/Article-1de49c2e3241d81027.htm](https://www.mako.co.il/news-israel/2024_q1/Article-1de49c2e3241d81027.htm). See also interview with Nili Margalit, *supra* note 118.

120 See reporting at: Adam Sella, *Israeli Military Releases Videos It Says Shows Bibas Family Members in Captivity on Oct. 7*, N.Y. TIMES (Feb. 20, 2024), <https://www.nytimes.com/2024/02/20/world/middleeast/bibas-family-israel-hamas-gaza.html>; *Bibas Family Confirms Israeli Military Briefed Them Regarding Hamas Claim Family Members Are Dead*, CNN (accessed Sept. 14, 2024), <https://www.cnn.com/videos/world/2023/11/30/exp-hostages-bibas-family-diamond-pkg-113001aseg2-cnni-world.cnn>.

121 This refers to the execution of hostages Carmel Gat, Eden Yerusalmi, Hersh Goldberg-Polin, Alexander Lobanov, Almog Sarusi, and Ori Danino (Kevin Shalvey & David Brennan, *Who Were the 6 Hostages Killed in Gaza?*, ABC NEWS (Sept. 2, 2024), <https://abcnews.go.com/International/who-were-6-hostages-killed-gaza-funerals-israel-hersh-goldberg-polin/story?id=113322975>).

122 See, e.g., Ephrat Livni, *Hamas Releases Hostage Video of Two Slain Israeli Captives*, N.Y. TIMES (Sept. 4, 2024), <https://www.nytimes.com/2024/09/04/world/middleeast/hamas-hostage-videos.html>; Olivia Land, *Hamas Cruelly Taunts Slain Hostages' Kin with Haunting New Video of Captives Before Death, Promises "Last Messages"*, N.Y. POST (Sept. 2, 2024), <https://nypost.com/2024/09/02/world-news/hamas-taunts-dead-hostages-families-with-videos-of-last-messages/>; *Hostage Video Released by Hamas*, SKY NEWS (accessed Sept. 14, 2024), <https://www.youtube.com/watch?v=AhkSzqxX11A>; Andrea Vacchiano, *Hamas Terrorists Release Footage of Six Slain Hostages, Promise to Share "Last Messages"*, FOX NEWS (Sept. 2, 2024), <https://www.foxnews.com/world/hamas-terrorists-release-footage-six-slain-hostages-promise-share-last-messages>.

123 As of the publication of this report in Dec. 2024.

124 See for example video published in Nov. 2024: <https://www.youtube.com/watch?v=i-lhbIbRbUY>.



Photo by Ziv Koren (Be'eri, Oct 11, 2023)

#### v. Burning and extreme vandalism of family homes

One pattern repeated in virtually all the impacted communities that Hamas and its collaborators invaded is the methodical burning, looting, and extreme vandalism of family homes.<sup>125</sup> In many cases, homes were set on fire with the families still seeking shelter inside, their charred bodies later discovered in the rubble.<sup>126</sup> According to a community representative from Nir Oz, for example, 60 percent of the homes in the community were burned down.<sup>127</sup> Hamas and its collaborators documented themselves gloating and cheering at the destruction of homes.<sup>128</sup>

*“[my] children have been everything to me since they came out of my womb. How do you say goodbye to something so sweet and innocent and beautiful, that makes you happy every day? It cannot be that you can die so easily inside your safe room, in your place, in your home – in the safest place in your home.”*

**—Sunshine Levy (Ein HaShlosa)**

125 Footage is archived with the Commission. See also Muhammad Darwish et al., *Children Found “Butchered” in Israel Kibbutz, IDF says, as horror of Hamas’ Attacks Near Border Begins to Emerge*, CNN (Oct. 13, 2023), <https://www.cnn.com/2023/10/10/middleeast/israel-kibbutzim-kfar-aza-beeri-urim-hamas-attack-intl/index.html>; Kalfan, *supra* note 100.

126 There is no official number of burned homes as of the writing of this report. But see, e.g., description of identification and evidence retrieval efforts in burnt homes: Melanie Lidman, *Archaeologists Sift Through Devastation to Help Families of Oct. 7 Victims Gain Closure*, TIMES OF ISRAEL (Nov. 17, 2023), <https://www.timesofisrael.com/archaeologists-sift-through-devastation-to-help-families-of-oct-7-victims-gain-closure/>. See also Kevin Sieff, *Israel’s Missing: Forensic Workers Struggle to Put Names to the Dead*, WASHINGTON POST (Oct. 31, 2023), <https://www.washingtonpost.com/world/2023/10/31/israel-attack-victims-forensic-identification/>.

127 Record of an interview with the Kfar Aza community representative, June 16, 2024, is archived with the Commission.

128 Footage is archived with the Commission.

The burning of houses was also repeatedly employed as a tactic to force families out of their shelters. The Even family from Be'eri was one of many whose home was set on fire by the perpetrators.<sup>129</sup> Attempting to escape the blazing fire, they leapt out of their saferoom's window and sought refuge in nearby bushes, but were discovered.<sup>130</sup> Parents Rinat and Chen, and their two older children, ages 14 and 16, were killed on the spot.<sup>131</sup> Their younger children, ages 12 and eight, managed to flee.<sup>132</sup> The children took refuge in another burning house, with their cousins, where security forces arrived in time to rescue them.<sup>133</sup> In Nirim, perpetrators entered the Laban family home and attempted to force open the family's saferoom, while the parents struggled to keep the door closed to protect their newborn baby. When they failed to open the door, the perpetrators set the house ablaze. Video footage taken inside the saferoom shows the room filled with thick smoke, with 10-day-old baby Kai, placed on the windowsill in an attempt to give him access to fresh air.<sup>134</sup> Baby Kai, his parents, and his grandmother were injured but survived and were eventually rescued.<sup>135</sup>

Relying on the review and analysis of thousands of images and videos, and observations made during on-site visits,<sup>136</sup> it seems that the destruction was also aimed at objects of sentimental value, including family photos, cherished mementos, and children's toys.<sup>137</sup> The killings of family pets were also documented in several locations, sometimes in the presence of their owners.<sup>138</sup> These acts not only destroy physical possessions, but also deeply impact the emotional well-being and cultural heritage of the affected families and communities.

## vi. Intentional separation of families

The forced separation of families was a recurring theme throughout the October 7 attack and its aftermath. Hamas and its collaborators used multiple tactics to separate children from parents, husbands from wives, and elderly grandparents and siblings from one another. The most well-documented cases of separation occurred during the abduction of families and their captivity. The

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129 Phone interview with an anonymous source (Nov. 7, 2024), record archived with the Commission; See news reports covering the Even family story: Ruth Margalit, *The Devastation of Be'eri*, NEW YORKER (Oct. 19, 2023), <https://www.newyorker.com/news/dispatch/the-devastation-of-beeri>; *The Massacre of the Even Family from Be'eri: The Bodies of Parent and 2 Children Identified; 2 Survived*, CHANNEL 7 NEWS (Oct. 19, 2023), <https://www.inn.co.il/news/617357>; Dina Halutz, Tom Avni: "When My Family from Be'eri Were in the Saferoom I Lied That the Army Was on the Way to Give Them Hope," YNET (Feb. 18, 2024), <https://www.ynet.co.il/laisha/article/h19xkpoi6>; *Between 5 Graves*, YNET (May 9, 2024), <https://www.ynet.co.il/yedioth/article/yokra13919125>; *To This Day I am Unable to Understand How We Are Alive: The Battle in the Kerem Neighborhood of Be'eri*, MAKO NEWS (June 18, 2024).

130 Phone interview with an anonymous source (Nov. 7, 2024), record archived with the Commission; See news reports covering the Even family story: Ruth Margalit, *supra* note 129; *The Massacre of the Even Family from Be'eri*, *supra* note 131; Dina Halutz, *supra* note 129; *Between 5 Graves*, *supra* note 131; *The Battle in the Kerem Neighborhood of Be'eri*, *supra* note 129.

131 Phone interview with an anonymous source (Nov. 7, 2024), record archived with the Commission; See news reports covering the Even family story: Ruth Margalit, *supra* note 129; *The Massacre of the Even Family from Be'eri*, *supra* note 129; Dina Halutz, *supra* note 129; *Between 5 Graves*, *supra* note 129; *The Battle in the Kerem Neighborhood of Be'eri*, *supra* note 129.

132 Phone interview with an anonymous source (Nov. 7, 2024), record archived with the Commission; See news reports covering the Even family story: Ruth Margalit, *supra* note 129; *The Massacre of the Even Family from Be'eri*, *supra* note 129; Dina Halutz, *supra* note 129; *Between 5 Graves*, *supra* note 129; *The Battle in the Kerem Neighborhood of Be'eri*, *supra* note 129.

133 Phone interview with an anonymous source (Nov. 7, 2024), record archived with the Commission; See news reports covering the Even family story: Ruth Margalit, *supra* note 129; *The Massacre of the Even Family from Be'eri*, *supra* note 129; Dina Halutz, *supra* note 129; *Between 5 Graves*, *supra* note 129; *The Battle in the Kerem Neighborhood of Be'eri*, *supra* note 129.

134 See testimony by parents and footage: *Ten-Day-Old Kai Was Placed on the Window of the Shelter in a House in Nirim That Was Set on Fire*, CHANNEL 13 NEWS, <https://www.youtube.com/watch?v=P0zG3HA0yu8> (accessed Sept. 14, 2024); *10-Day-Old Baby on the Windowsill: While Terrorists Burned His House*, KAN NEWS, <https://www.youtube.com/watch?v=8yz1zXMTCCg> (accessed Sept. 14, 2024).

135 Phone interview with anonymous source (Nov. 7, 2024). See also Ronny Reyes, *British Family with Baby Hid in Saferoom for 9 Hours as Hamas Destroyed Home, Village*, N.Y. Post (Oct. 8, 2023), <https://nypost.com/2023/10/08/british-family-with-baby-hid-in-safe-room-for-9-hours-as-hamas-attacked/>; *Kai, the 9-Day-Old Infant That Miraculously Survived the Hamas Attack*, I24 NEWS (Oct. 24, 2023), <https://www.i24news.tv/en/news/israel-at-war/1698147142-kai-the-9-day-old-infant-that-miraculously-survived-the-hamas-attack>.

136 Footage is archived with the Commission.

137 Recordings and reports of site visits are archived with the Commission.

138 Evidence is archived with the Commission. See for example: Emily Crane, *Hamas Barbarians Butcher Family Dog, Scorch Bodies in Bloody Rampage: Video*, New York Post (Oct. 12, 2023), <https://nypost.com/2023/10/12/hamas-terrorists-butcher-family-dog-in-bloody-rampage/>; Ilana Kuriel, *They Shot Dogs Too: "Terrorists Killed the Cutest Creature There Is"*, Ynet+ (Nov. 29, 2024), [https://www.ynet.co.il/environment-science/article/yokra14162997?utm\\_source=ynet.app.ios&utm\\_term=yokra14162997&utm\\_campaign=whatsapp&utm\\_medium=social](https://www.ynet.co.il/environment-science/article/yokra14162997?utm_source=ynet.app.ios&utm_term=yokra14162997&utm_campaign=whatsapp&utm_medium=social).





Photo by Ziv Koren (Nir Oz, Oct 15, 2023)

perpetrators abducted and took hostage 37 families in eight different communities.<sup>139</sup> Hamas and its collaborators forced the separation of the majority of the hostaged families, and even many of those who were captured together were torn apart during their time in captivity. Twenty-seven of the 37 families taken hostage were separated (over 70 percent of families).<sup>140</sup> There are several documented cases of children as young as three years old being separated from their parents and siblings when taken hostage, and held alone,<sup>141</sup> as described in more detail above.<sup>142</sup> Most commonly, fathers were taken away from their wives and children and held separately.<sup>143</sup> One such example is the Bibas family, whose footage circulated worldwide,<sup>144</sup> and was even used as propaganda.<sup>145</sup> The family was found together in their home, but the father, Yarden, was violently separated from his wife and young children upon their abduction, and was held in captivity apart from his family.<sup>146</sup> Returning hostages have testified that Yarden's emotional state as a result of the separation from his family was deteriorating and extremely concerning.<sup>147</sup>

139 Be'eri, Holit, Kfar Aza, Kissufim, Nahal Oz, Nir Oz, Nir Yitzhak, and Nirim (based on the Commission's database).

140 Based on the Commission's database.

141 See, e.g., the interview with Sharon Cunio, mother of three-year-old twins Emma and Yuli: Kalfan, *supra* note 100.

142 See subsection on "Taking/Holding Children Hostage Without Their Parents."

143 Based on the Commission's database.

144 See, e.g., *Video Shows the Kidnapping of Shiri Silberman-Bibas and Her Children by Hamas Gunmen*, NBC News (October 9, 2023), <https://www.nbcnews.com/video/video-shows-hamas-gunmen-kidnap-shiri-silberman-bibas-and-her-children-194724933949> (accessed Aug. 19, 2024).

145 Video footage is archived with the Commission.

146 See, e.g., the interview with Yarden Bibas's sister, where she describes her last communication with her brother, indicating that the family was together in the safe room when Hamas-led perpetrators invaded their house: Danielle Campoamor, *Those Pictures Do Not Leave My Mind*, THE CUT (Oct. 20, 2023), <https://www.thecut.com/2023/10/she-found-out-hamas-took-her-relatives-via-social-media.html>. Footage of the separate abductions of the Bibas family members is archived with the Commission.

147 See, e.g., the testimony of Tamar Metzger, who spent her period of captivity in the same location as Yarden Bibas: *The Hostage Who Was Released—and Was Disappointed by the Decisionmakers*, 13 NEWS, <https://www.youtube.com/watch?v=PJYZUICF8d8> (accessed Sept. 14, 2024).

Moreover, in several cases, Hamas and its collaborators selectively took hostage some family members, primarily fathers and boys, while intentionally leaving others behind, as happened with Tsachi, the father of the Idan family of Nahal Oz, depicted in the introduction to this report, and Omri Miran, the father of the Idans' next-door neighbors. In the case of the Miran family,<sup>148</sup> Omri's two-year-old daughter, Roni, was torn from her father's arms screaming, as he was taken hostage and forced to separate from his wife and two young daughters who were left behind.<sup>149</sup> Roni tried to chase her father, begging to go with him, and was held back by her mother as her father was taken away, illustrating the emotional pain familial separation causes.<sup>150</sup> A video of the families before the separation of the fathers was filmed by the perpetrators and widely circulated.<sup>151</sup> Similarly, in Be'eri, Amit Shani (15) was separated from his mother and sisters and taken away into Gaza, where he was held hostage for nearly two months.<sup>152</sup>

In many cases, even families who remained together during their captivity were torn apart when the women and children were released under the Hostage Release Agreement while the fathers were left behind in Gaza.<sup>153</sup> Released families report that their captors forced them to separate from the men of their family several days before their release date rather than allowing the families to remain together until the last moment.<sup>154</sup> This early separation contributed significantly to their profound sense of torment, guilt, and anguish. Sharon Cunio of Nir Oz describes the extreme trauma and agony that resulted from the forced separation from her husband, David, three days before she and their three-year-old twins were released.<sup>155</sup> It is also noteworthy that, for unexplained reasons, some family members were not released together on the same day but were assigned different release dates: for example, Sharon's sister and niece were released several days before Sharon and her children.<sup>156</sup> The most telling case is 13-year-old Hila Rotem, who was forced to leave her mother behind in Gaza upon her release, while her mother was kept hostage for five additional days.<sup>157</sup> These actions were in alleged violation of the ceasefire agreement, which stated that children would not be separated from their mothers.<sup>158</sup>

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148 Based on the Commission's database.

149 See, e.g., the I24 News interview with Lishay Miran describing her husband's abduction and separation from the family: *Wife Recalls the Moment Her Husband Was Kidnapped by Hamas*, i24 NEWS English, <https://www.youtube.com/watch?v=S7uGMF6y3Fg> (accessed Aug. 19, 2024). See also phone interview with Lishay Miran (Aug. 2024), record archived with the Commission.

150 See, e.g., I24 News interview with Lishay Miran, *supra* note 149. See also phone interview with Lishay Miran (Aug. 2024), record archived with the Commission.

151 Footage archived with the Commission.

152 Interview with Amit Shani, describing his abduction, separation from his mother and sisters, and his time in captivity: Lee Abramovich, "The Kidnappers Told Me to Write a Farewell Letter Before Death": Amit Shani Speaks, N12 NEWS (Jan. 21, 2024), [https://www.mako.co.il/news-israel/2024\\_q1/Article-0c338b523882d81026.htm](https://www.mako.co.il/news-israel/2024_q1/Article-0c338b523882d81026.htm).

153 See information on the conditions of the Hostage Release Agreement between Israel and Hamas, as related in media reports: Tia Goldenberd, *Families of Hostages Not Slated for Release from Gaza During Current Truce Face Enduring Nightmare*, AP NEWS (Nov. 24, 2023), <https://apnews.com/article/hostages-hamas-gaza-israel-freed-6395a6113301e677bcac713f8db914b1>. See also official decision of the Israeli government approving the Hostage Release Agreement: Israeli Prime Minister's Office, Prisoner Release due to Foreign Relations and National Security Reasons, Decision No. 1077 (Nov. 21, 2023), <https://www.gov.il/he/pages/dec1077-2023>.

154 See, e.g., Reuters interview with Sharon Cunio describing the forced separation from her husband, David Cunio, three days before their release: *Israeli Family Held Hostage Together, Separated After Release*, Reuters, <https://www.youtube.com/watch?v=xR8xxDS5JpA> (accessed Sept. 14, 2024).

155 Reuters interview with Sharon Cunio describing the forced separation from her husband, David Cunio, three days before their release: *Israeli Family Held Hostage Together, Separated After Release*, Reuters, <https://www.youtube.com/watch?v=xR8xxDS5JpA> (accessed Sept. 14, 2024).

156 While we do not have conclusive evidence that the separated release of families was calculated and intentional, it is a recurring pattern that is in clear alignment with other systematic actions taken by Hamas to inflict harm on families.

157 CNN, "She Had to Say Goodbye to Her Mother": Uncle of 13-Year-Old Released by Hamas Speaks to CNN, <https://www.cnn.com/videos/world/2023/11/27/yair-rottem-hamas-hostage-release-ip-wolf-blitzerer-vpx.cnn>; Eric Morath & Margherita Stancati, *Hila Rotem Shoshani, 13, Among Those Released, but Her Mother Isn't*, WALL STREET JOURNAL (Nov. 28, 2023), <https://www.wsj.com/livecoverage/israel-hamas-war-gaza-strip-2023-11-21/card/hila-rottem-shoshani-13-among-those-released-but-her-mother-isn-t-kxnSDXGPxkCaQQwDcoq>

158 Henry Bodkin, *Hamas Hostage Deal Nearly Derailed Over Separation of Mothers and Children*, TELEGRAPH (Nov. 26, 2023), <https://www.yahoo.com/news/hamas-hostage-deal-nearly-derailed-132513217.html?>



Additionally, there are at least two cases, documented in video footage, of children temporarily separated at gunpoint from their parents and taken to a different location. The two cases occurred in the same community.<sup>159</sup> The perpetrators separated Tomer Arava Eliaz (17) of Nahal Oz at gunpoint from his parents and siblings as his stepfather begged the perpetrators to take him instead. Tomer was led outside and forced to aid the perpetrators in luring neighbors out of their saferooms. He was killed later that day.<sup>160</sup> The perpetrators removed the rest of the family from their home and took them hostage. On their way to Gaza, the mother was killed, and Tomer's two stepsisters, Dafna (15) and Ella (8) were forcibly separated from their father. The father was also killed while the two girls were taken into Gaza on their own.<sup>161</sup>

*“Until Omri is here, until he returns, until there is an end to the story of October 7th, I, we, are kind of in the same day. The seasons have changed, we have moved places, but we, I, am still there. I am not a sister, I am not a daughter, I am not a friend, I am not Lishay. I am the wife of a hostage and I have to do everything for him to come back here, and I am the mother of two daughters whose father was cruelly taken from them, and I have to be there for them. And when Omri returns, then we will start taking care of everything.”*

**—Lishay Miran Lavi (Nahal Oz)**

To conclude, these documented facts and combination of circumstances establish that Hamas and its collaborators undertook systematic actions intentionally or knowingly aimed to destroy, harm, torment and terrorize families.

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159 Footage from the Idan and Arava-Elyakim families' households archived with the Commission.

160 Footage of the Arava family, which was livestreamed by Hamas perpetrators through the mother's Facebook account, is archived with the Commission. See also *The Horrific Video Taken by Hamas Terrorists of a Family*, *supra* note 112.

161 The mother, Dikla, was also killed before reaching Gaza, in a separate incident. See interview with Dafna and Ella Elyakim: The Sisters Dafna and Ella Elyakim, Who Were Kidnapped from Nahal Oz on Black Sabbath and Were Released from Captivity after 51 Days, Kibbutz Nahal Oz, <https://www.youtube.com/watch?v=put-JtCqNIs> (accessed Sept. 14, 2024). See also Ronny Reyes, Israeli Mom Who Offered Herself as Hostage to See Kidnapped Daughters Is Finally Reunited with Them, N.Y. Post (Nov. 27, 2023), <https://nypost.com/2023/11/27/news/israeli-mom-who-offered-herself-as-hostage-to-see-kidnapped-daughters-is-finally-reunited-with-them/>.

## **B. The Systematic Weaponization of Families**

A determination of premeditation is a complex matter that requires a more comprehensive enquiry, which this report urges the international legal community and enforcement agencies to pursue. Yet, after a thorough factual investigation and analysis, we were able to preliminarily identify several objective indicators that can anchor the assessment of the preplanning and intentionality of the attack on families on October 7.

### **i. Timing and circumstances**

Hamas and its collaborators initiated the attacks during the early morning hours on a Saturday (weekend), a time one can reasonably assume families will be at home sleeping or just starting their day (in contrast to weekdays when residents are likely to be at work or school). October 7 was also the Jewish holiday of Simchat Torah, when families routinely gather at home to celebrate. Furthermore, the armed invasion was timed simultaneously with a heavy missile attack, which, under the official safety protocols, requires all citizens to gather in their saferooms, further increasing the likelihood that families will be found inside their homes.<sup>162</sup> These choices imply that Hamas intended, or reasonably expected, to focus a significant portion of its attack on families and their homes.

### **ii. Repetition and consistent patterns of behavior**

The data collection and analysis of the materials allowed us to identify specific conduct and patterns, as outlined above, that were repeated in multiple geographic locations during the attack.<sup>163</sup> These include, for example, forced separation of families, abduction of children without their parents, abduction or murder of parents or other family members, selective killing and physical injury of some family members with others bearing witness, using social media and broadcasting to cause and exacerbate pain and suffering, extreme vandalism, and burning of family homes while families hid or were trapped inside. The nature of these acts, and the fact that they were not isolated or random but rather repetitive, as specified in detail in Subsection I.A, may be indicative of a planned modus operandi to intentionally or knowingly inflict harm on families and break down family units, rather than “merely” maximize the number of human casualties.

### **iii. Geographical distribution**

The deliberate nature of the attack is further supported by the fact that the repetitive patterns and methods used by Hamas and its collaborators to attack or perpetrate violence against families were geographically distributed across multiple different communities.<sup>164</sup> This negates the likelihood that the actions resulted from chance or spur-of-the-moment individual decisions.

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<sup>162</sup> Israeli National Emergency Portal (Pikud Ha'Oref), Life Saving Guidelines for Rocket and Missile Attacks, <https://www.oref.org.il/heb/life-saving-guidelines/rocket-and-missile-attacks>.

<sup>163</sup> Based on the Commission's database.

<sup>164</sup> Based on the Commission's database. The attack was conducted simultaneously in multiple geographical locations across the region, which required the involvement of several different operating units who operated in concurrence. See for example: Mapping the Massacre, <https://oct7map.com/>; Human Rights Watch, 'I Can't Erase All the Blood from My Mind': Palestinian Armed Groups' October 7 Assault on Israel (2024), <https://www.hrw.org/report/2024/07/17/i-cant-erase-all-blood-my-mind/palestinian-armed-groups-october-7-assault-israel> (describing the overarching scheme of the operation that was “timed to occur simultaneously or in quick succession, all point to a high degree of planning, coordination, and communication among the participating armed groups”). See also Liselotte Mas, How Hamas Planned its October 7 Attack on Israel, *Le Monde* (Feb 15, 2024), [https://www.lemonde.fr/en/international/video/2023/10/24/how-hamas-planned-its-october-7-attack-on-israel\\_6199916\\_4.html](https://www.lemonde.fr/en/international/video/2023/10/24/how-hamas-planned-its-october-7-attack-on-israel_6199916_4.html).

#### iv. Repetitive protocols

The use of repetitive protocols and procedures by Hamas and its collaborators during their invasion and attack of the residential communities, also indicates that the attack was highly organized and preplanned. Repetitive procedures that were identified, include the meticulous documentation of the abuses and posting them on social media platforms.<sup>165</sup> Another example that repeatedly appear in video documentation of that attack is that upon entering family homes, the perpetrators would ask the family the same set of questions. They would ask all the adults present to show their identification cards, and would question family members on where they were from and where they were born.<sup>166</sup> The repeated use of these procedures implies a high level of preplanning and organization.

While families were certainly not the only targets of the Hamas attack on October 7, the cumulation of evidence and circumstances presented in this section support the conclusion that the attack on family was not randomized or opportunistic, but rather a planned, intentional, and targeted operation, aimed at inflicting harm on families. The evidence supporting this conclusion includes the repetition of patterns of operation across multiple geographical locations, in several different communities, and performed by separate operating units;<sup>167</sup> the tailoring of the tactics and methods used in the attack to effectively and efficiently inflict harm on families, which substantially differ from those used in the Nova Music Festival and the military bases;<sup>168</sup> the timing and chosen locations of the attack; and the use of repetitive procedures and protocols.

#### v. Additional observations on the systematic weaponization of families

Most of the families impacted, across all communities, were subjected to multiple of the listed tactics and strategies,<sup>169</sup> further compounding the cumulative trauma, harm, and suffering. Also, in many of the invaded communities, it is not uncommon to find several households of the same extended family living side-by-side, and therefore, multiple branches of the same family were severely impacted, or even eliminated, in the attack.<sup>170</sup> Furthermore, the uniquely tight-knit communal nature of most of the invaded communities, namely the kibbutzim and moshavim, where neighbors consider themselves family, expanded the magnitude and impact of harm and destruction throughout the communities.<sup>171</sup>

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165 Sheera Frenkel & Talya Minsberg, *Hamas Hijacked Victims' Social Media Accounts to Spread Terror*, N.Y. TIMES (Oct. 17, 2023), <https://www.nytimes.com/2023/10/17/technology/hamas-hostages-social-media.html>.

166 Footage documenting these patterns is archived with the Commission. See for example footage of the Arava-Elyakim family of Nahal Oz <https://www.youtube.com/watch?v=put-JtCqNIs> (accessed Sept. 14, 2024).

167 The attack was conducted simultaneously in multiple geographical locations across the region, which required the involvement of several different operating units who operated in concurrence. See for example: Mapping the Massacre, <https://oct7map.com/>; Human Rights Watch, *'I Can't Erase All the Blood from My Mind': Palestinian Armed Groups' October 7 Assault on Israel* (2024), <https://www.hrw.org/report/2024/07/17/i-cant-erase-all-blood-my-mind/palestinian-armed-groups-october-7-assault-israel> (describing the overarching scheme of the operation that was "timed to occur simultaneously or in quick succession, all point to a high degree of planning, coordination, and communication among the participating armed groups"). See also Liselotte Mas, *How Hamas Planned its October 7 Attack on Israel*, Le Monde (Feb 15, 2024), [https://www.lemonde.fr/en/international/video/2023/10/24/how-hamas-planned-its-october-7-attack-on-israel\\_6199916\\_4.html](https://www.lemonde.fr/en/international/video/2023/10/24/how-hamas-planned-its-october-7-attack-on-israel_6199916_4.html).

168 Based on comprehensive review and analysis of the materials in the Commission's archive.

169 Based on the Commission's database.

170 See multiple examples throughout this section. One example is the Cunio family, as explained in video interview with Silvia Cunio: *8 Kidnapped, 3 Still in Gaza: The Disaster That Tears the Aloni-Cunio Family Apart*, KAN News, <https://www.youtube.com/watch?v=J04yIMXlrw> (accessed Sept. 14, 2024). Another example in the Bibas family of Nir Oz, with Yarden, Shiri, Ariel (4) and Kfir (9-moths) taken hostage, while both of Shiri's parents – Margit and Yossi Silverman – were murdered in their home nearby (based on the Commission's database).

171 See explanation about the Kibbutz ideology and characteristics at: Ran Abramitzky, *The Limits of Equality: Insights from the Israeli Kibbutz*, 123(3) *The Quarterly Journal of Economics* 1111 (2008); Becky Sullivan, *What is a kibbutz? The roots of Israel's communal villages where violence raged*, NPR (Oct. 12, 2023), <https://www.npr.org/2023/10/12/1205284601/what-is-a-kibbutz-the-roots-of-israels-communal-villages-where-violence-raged>.





Photo by Ziv Koren (Be'eri, Oct 28, 2023)

This multifaceted compounded harm, inflicted upon many families through a combination of multiple patterns of conduct described above, can be illustrated by sketching the full set of circumstances pertaining to one impacted family. The Cunio family of Nir Oz is a clear-cut example. Since October 7, the extended Cunio family endured multiple forms of abuse defined in this section of the report: forced family separation, taking of children and family members hostage, separation of young children from their parents, burning and vandalizing of homes (including while family members hid inside), and the use of several social media tactics.<sup>172</sup> Eight Cunio family members across two adjacent households—five adults and three young children—were taken hostage.<sup>173</sup> Mother Sharon, father David, and their three-year-old twins, Emma and Yuli, were all home, hiding in their saferoom. Sharon's sister Danielle and her six-year-old daughter Emilia, who were visiting the family for the holiday, were also with them.<sup>174</sup> The perpetrators set the house on fire to force the family out. A

<sup>172</sup> Based on the Commission's database; Interview with Sharon Cunio, *supra* note 100.

<sup>173</sup> Interview with Sharon Cunio, *supra* note 100; *Sisters and Their Daughters Released; Brother-in-Law Still Captive*, TIMES OF ISRAEL (Oct. 24, 2023), <https://www.timesofisrael.com/taken-captive-two-sisters-and-their-families-from-a-sealed-room/>; *The Recordings Are Revealed: The Moments of the Abduction of Sharon Cunio and Her Daughters from their Home in Nir Oz*, WORLD OF ENTERTAINMENT, <https://www.youtube.com/watch?v=z9AT6upUEBU> (accessed Sept. 14, 2024); Isabel Keane, *Israeli Mom Reveals Haunting Conversation with Daughter During Hamas Attack: "We Are About to Die,"* N.Y. Post (Jan. 8, 2024), <https://nypost.com/2024/01/08/news/israeli-mom-danielle-aloni-told-daughter-we-are-about-to-die-during-hamas-attack/>; *They Separated My Husband from Us: Sharon Cunio-Aloni's Testimony About Hamas Captivity*, KAN News, <https://www.youtube.com/watch?v=GUJUyq6sdW4> (accessed Sept. 14, 2024); *8 Kidnapped, 3 Still in Gaza: The Disaster That Tears the Aloni-Cunio Family Apart*, KAN News, <https://www.youtube.com/watch?v=J04yIMXlrw> (accessed Sept. 14, 2024).

<sup>174</sup> Interview with Sharon Cunio, *supra* note 100; *Sisters and Their Daughters Released; Brother-in-Law Still Captive*, TIMES OF ISRAEL (Oct. 24, 2023), <https://www.timesofisrael.com/taken-captive-two-sisters-and-their-families-from-a-sealed-room/>; *The Recordings Are Revealed: The Moments of the Abduction of Sharon Cunio and Her Daughters from their Home in Nir Oz*, WORLD OF ENTERTAINMENT, <https://www.youtube.com/watch?v=z9AT6upUEBU> (accessed Sept. 14, 2024); Isabel Keane, *Israeli Mom Reveals Haunting Conversation with Daughter During Hamas Attack: "We Are About to Die,"* N.Y. Post (Jan. 8, 2024), <https://nypost.com/2024/01/08/news/israeli-mom-danielle-aloni-told-daughter-we-are->

recorded call to first responders documented Sharon calling for help as they were choking from the smoke. Her daughter in the background shouted, “Mom, don’t leave me! Mom, don’t die!”<sup>175</sup> When they could not breathe due to the smoke, they tried to escape through the window. The armed perpetrators waited for them right outside the window and captured them.<sup>176</sup> Danielle and Emilia were separated from the rest of the family immediately.<sup>177</sup> Upon arrival in Gaza, one of the twin sisters, three-year-old Emma, was taken away at gunpoint and kept separate from the rest of the family for the next ten days.<sup>178</sup> During their time in captivity, footage of their abduction was posted on social media by Hamas, which was how their family learned of their fate.<sup>179</sup> A few weeks later, a staged video of Danielle and two other hostages reciting messages dictated to them by their captors was also broadcasted by Hamas.<sup>180</sup>

Three days before Sharon and the twins were released under the Hostage Release Agreement, David was taken away from them.<sup>181</sup> David is still held in Gaza. For unexplained reasons, Sharon’s sister Danielle and her daughter Emilia were assigned a different release date, so they were forced to separate from them as well.<sup>182</sup> Just down the road, David’s younger brother Ariel and his spouse Arbel were also taken hostage from their home, and are still held in Gaza.<sup>183</sup> Arbel’s brother, Dolev, was murdered on October 7.<sup>184</sup> David’s identical twin brother, Eitan, who lives with his wife and young children down the road, had their house burned down while they were sheltering inside.<sup>185</sup> They could not open the door or window due to the extreme heat. Eitan called David for help, but there was no way to reach them. At the last moment, when they were near death, they managed to escape the flames and survived. David was left in Gaza, convinced that his identical twin had burned to death, and riddled with guilt that he failed to save him.<sup>186</sup>

It is important to emphasize that, at present, there are no publicly available databases or lists of those who sustained injuries or had their homes burned or destroyed. As a result, many more cases of families that suffered grave violence during the attack under these categories are not presented in this report, are currently difficult to identify and confirm and will continue to surface, as the

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about-to-die-during-hamas-attack/; *They Separated My Husband From Us: Sharon Cunio-Aloni’s Testimony About Hamas Captivity*, KAN News, <https://www.youtube.com/watch?v=GUJUyq6sdW4> (accessed Sept. 14, 2024); *8 Kidnapped, 3 Still in Gaza: The Disaster That Tears the Aloni-Cunio Family Apart*, KAN News, <https://www.youtube.com/watch?v=J04yIMXlrw> (accessed Sept. 14, 2024).

175 Interview with Sharon Cunio, *supra* note 100; Audio recording shared in an N12 investigative report: Michal Kalfan, *supra* note 100; “Mother, No, Don’t Die!” Sharon Aloni-Kunio Returns to Nir Oz and the Heartbreaking Recording, *MAKO NEWS* (April 6, 2024), [https://www.mako.co.il/news-military/2024\\_q2/Article-2c506d95f7edf81027.htm](https://www.mako.co.il/news-military/2024_q2/Article-2c506d95f7edf81027.htm)

176 Kalfan, *supra* note 100.

177 Interview with Sharon Cunio, *supra* note 100.

178 *Id.*

179 Footage is archived with the Commission.

180 Footage is archived with the Commission. See also William Booth & Ilan Ben Zion, *Hamas Hostage Videos Are Cruel, Manipulative, Revealing. Experts Expect More*, *WASHINGTON POST* (Oct. 31, 2023), <https://www.washingtonpost.com/world/2023/10/31/hamas-video-hostages-israel/>; *Hamas’ Psychological Warfare: On the Release of the Video of the 3 Hostages*, *CHANNEL 13 NEWS*, <https://www.youtube.com/watch?v=BhirMg6EUaU> (accessed Sept. 14, 2024).

181 Interview with Sharon Cunio, *supra* note 100; Kalfan, *supra* note 100. See also Tara John & Jennifer Griffiths, *Freed Israeli Hostage Says She Was Held in Gaza Hospital with Dozens of Others*, *CNN* (Jan. 18, 2024), <https://www.cnn.com/2024/01/17/middleeast/freed-israeli-hostage-says-held-in-gaza-hospital-intl/index.html>.

182 *Hamas Hostages: Stories of the People Taken from Israel*, *BBC* (Sept. 1, 2024), <https://www.bbc.com/news/world-middle-east-67053011>.

183 See interview with Silvia and Louis Cunio, Ariel’s parents: *8 Kidnapped, 3 Still in Gaza: The Disaster That Tears the Aloni-Cunio Family Apart*, KAN News, <https://www.youtube.com/watch?v=J04yIMXlrw> (accessed Sept. 14, 2024); Interview with Sharon Cunio, *supra* note 100.

184 Report of the identification of Dolev Yehud’s dead body: Samuel Osborne, *Dolev Yehud: Israeli Presumed to Have Been Taken Hostage During Hamas Attack Found Dead*, *SKY NEWS* (June 3, 2024), <https://news.sky.com/story/dolev-yehud-israeli-presumed-to-have-been-taken-hostage-during-hamas-attack-found-dead-13147154>. At the time of his murder, Dolev’s three children and his wife, who was expecting their fourth child, were hiding in the saferoom.

185 See Eitan Cunio’s account: Kalfan, *supra* note 100. See interview with Silvia and Louis Cunio, Ariel’s parents: *8 Kidnapped, 3 Still in Gaza: The Disaster That Tears the Aloni-Cunio Family Apart*, KAN News, <https://www.youtube.com/watch?v=J04yIMXlrw> (accessed Sept. 14, 2024); Interview with Sharon Cunio, *supra* note 100.

186 Kalfan, *supra* note 100; Interview with Sharon Cunio, *supra* note 100.



Commission's database and archive continue to grow and expand. We find it extremely likely that many more cases under these categories exist across the region beyond those currently logged in the Commission's database. The Commission's documentation team continues investigating, recording, and archiving these cases.

Additionally, we must explicitly note that although this report primarily focuses on the systematically targeted abuse against families within the residential communities that were invaded on October 7, the impact of the attack on families extends far beyond that. A wealth of evidence exists to demonstrate devastating harm to families in locations outside these communities. The Kapshitzer family, for example, Zhenia and Dina, along with their children, seven-year-old Alin and four-year-old Eitan, were enjoying their first camping trip when they heard the sirens and hurried to pack up and return home. Perpetrators ambushed their car on the morning of October 7 and killed all four of them—a young family entirely annihilated.<sup>187</sup> Another family, who was attempting to flee their town from the missile attack in their car, were also intercepted by armed perpetrators. The parents were murdered in front of their young daughters, ages three and six, who hid in the back seat.<sup>188</sup> Video footage of first responders who arrived on the scene in Sderot captured the six-year-old girl screaming for help and begging the officers to take them out of the car and save them.<sup>189</sup> In another scene, 23-year-old S. Abu-Rashed of the Bedouin community was rushed to the hospital by her husband and his brother when she went into labor early in the morning on October 7.<sup>190</sup> The perpetrators fired shots at their car, hitting the mother and her unborn baby.<sup>191</sup> Although the mother was stabilized at the hospital, the baby held on for only 14 hours before dying of her injuries.<sup>192</sup> While these killings happened outside family homes and the residential communities, they provide additional perspective on the vast extent of the destructive impact to families that unfolded that day.

The collective analysis of these events and the repeated patterns of destruction, along with the extensive effort devoted to causing maximum damage, suggests that Hamas and its collaborators aimed to inflict more than just random mass casualties. The evidence and the pattern of conduct suggest that Hamas and its collaborators sought to achieve greater devastation beyond loss of life. The report's analysis supports the conclusion that Hamas and its collaborators intended premeditated objective was to tear apart and wreaking havoc and devastation on the most basic and meaningful social unit, the most elemental source of safety, stability, strength, and sustenance—the family.

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187 Kan News report on the Kapshitzer family: *No One Survived: Zhenia, Dina, Alin, and Eitan Went Camping—and Were Murdered*, KAN NEWS, [https://www.youtube.com/watch?v=15\\_1D860Frg](https://www.youtube.com/watch?v=15_1D860Frg) (accessed Sept. 14, 2024). See also: Noam Dvir, *Was Supposed to Be Happy, but Only Highlights the Loss: The Saddest Family Day in the World*, ISRAEL HAYOM (Feb 7, 2024), <https://www.israelhayom.co.il/news/local/article/15233643>.

188 Footage is archived with the Commission. See also *Swissa Family*, KAN 7.10, <https://www.710360.kan.org.il/sderot/swissa/> (accessed Sept. 15, 2024); *The Parents Were Murdered in the Square in Sderot, the Children Were Saved: "I Can't Get the Image Out of My Head,"* CHANNEL 13 (Oct. 20, 2023), <https://13tv.co.il/item/news/domestic/internal/l6osh-903762450/>.

189 Footage is archived with the Commission. See also *Swissa Family*, KAN 7.10, <https://www.710360.kan.org.il/sderot/swissa/> (accessed Sept. 15, 2024); *The Parents Were Murdered in the Square in Sderot, the Children Were Saved: "I Can't Get the Image Out of My Head,"* CHANNEL 13 (Oct. 20, 2023), <https://13tv.co.il/item/news/domestic/internal/l6osh-903762450/>.

190 See media reports: Yaniv Sharon, *S. Abu Rashed Was in Advanced Pregnancy When Terrorists Shot Her in the Stomach on Oct. 7. The Bullet Killed the Fetus, and the Mother Survived*, DAVAR (Dec. 3, 2023), <https://www.davar1.co.il/470107/>.

191 Telephone Interview with Terfi Abu Rashed (Nov. 27 (2024), record archived with the Commission; See media reports: Yaniv Sharon, *supra* note 189.

192 Abu Rashed, *supra* note 190; See media reports: Yaniv Sharon, *supra* note 189.

## II. Why Do Families Deserve Special Attention?

*“I have nothing left. They murdered my husband. They destroyed my house. They shattered everything I believed in, everything I lived by, everything I... all the flags I waved. Everything is shattered. There’s no feeling of anything. Just of being so alone.”*

—Hadas Dagan (Be’eri)

This section highlights the prominent status and significance of the family unit in human societies, supported by empirical and scientific evidence. It also lays out the pathways for the distinct and expansive multifaceted injurious effects likely to result when the strong emotional ties among family members and delicate social structures are subjected to brutality, both generally and especially when close-knit communities like the ones attacked on October 7 are in question. It underscores the need to adjust current ICL instruments, to enhance their ability to address kinocide in a manner that accounts for its true gravity, impact, and acute harm.

Violence directed at families to instill fear, amplify trauma, and deepen suffering has far-reaching consequences. This is primarily due to the position of the family as the most basic and fundamental unit of human societies.<sup>193</sup> Across cultures, most societies recognize and value these important characteristics of the family unit.<sup>194</sup> Scientific studies clearly determine familial bonds to be the most significant and meaningful relationships in an individual’s life.<sup>195</sup> The family unit is an elemental source of safety, sustenance, stability, belonging, and identity.<sup>196</sup>

These central functions of the family lie in three commonly found (though by no means universal) traits. First, familial relationships are often emotionally charged, steeped with positive and desirable feelings of love, empathy, and selflessness.<sup>197</sup> Second, families and the intricate relationships within them are central to people’s concepts of self, identity, and autonomy.<sup>198</sup> Third, families provide people with an intimate space where they can let their guard down and be vulnerable. It is also a private sanctuary, socially sanctioned to enable freedom from unwelcome “outside” intrusions.<sup>199</sup> Stemming from these valuable traits, the family shapes an individual’s well-being across the life course.<sup>200</sup> Familial relationships and support are some of the most potent and effective protective factors and sources of resilience that help people cope with and overcome adversity and trauma.<sup>201</sup>

193 ICCPR – Article 23(1); G. J. Ebrahim, *The Family as a Child-Rearing Unit of Society*. In: CHILD HEALTH IN A CHANGING ENVIRONMENT (1982); Foluke Ajayi, *Revisiting Family Values: A Pathway Towards Societal Stability*, 11(2) GENDER & BEHAVIOR 5635 (2013).

194 Our World in Data, *How Important Family Is to People in Life* (2022), <https://ourworldindata.org/grapher/how-important-family-is-to-people-in-life?tab=table&time=2022>. This data corresponds with Article 23(1) of the International Covenant on Civil and Political Rights (ICCPR), which states that “the family is the natural and fundamental group unit of society and is entitled to protection by society and the state.”

195 Ahra Ko, et al., *Family Matters: Rethinking the Psychology*, 15(1) PERSP. ON PSYCH. SCI. 173 (2020); N. M. Lambert, et al., *Family as a Salient Source of Meaning in Young Adulthood*, 5(5) J. POSITIVE PSYCH. 367 (2010); Robert C. Whitaker, et al., *Family Connection and Flourishing Among Adolescents in 26 Countries*, 149(6) PEDIATRICS (2022).

196 I. Kawachi & L. F. Berkman, *Social Ties and Mental Health*, 78 J. URBAN HEALTH-BULLETIN OF N.Y. ACAD. MED. 458 (2001); Friedman & Ketola, *supra* note 21.

197 Kawachi & Berkman, *supra* note 195; Friedman & Ketola, *supra* note 21; Ajayi, et al. *supra* note 192.

198 Kawachi & Berkman, *supra* note 195; Friedman & Ketola, *supra* note 21; Ajayi, et al. *supra* note 192.

199 Ahra Ko, et al., *supra* note 194.

200 Robert C. Whitaker, et al., *Family Connection and Flourishing Among Adolescents in 26 Countries*, 149(6) PEDIATRICS (2022); P. A. Thomas et al., *Family Relationships and Well-Being*, INNOVATION AGING (2017); E.-M. Merz, et al., *Well-Being of Adult Children and Ageing Parents: Associations with Intergenerational Support and Relationship Quality* 29 AGEING & Soc’y 783 (2009); Jing An, et al., *A Serial Mediating Effect of Perceived Family Support on Psychological Well-Being*, 24 BMC PUB. HEALTH 940 (2024).

201 Robert C. Whitaker, et al., *Family Connection and Flourishing Among Adolescents in 26 Countries*, 149(6) PEDIATRICS (2022); National Scientific Council on the Developing Child, *Supportive Relationships and Active Skill-Buildings Strengthen the Foundations of Resilience: Working Paper 13* (2015), <https://developingchild.harvard.edu/wp-content/uploads/2015/05/The-Science-of-Resilience.pdf>; Weiguang Wang, Natasha Z.

Conversely, when the family bond is torn apart and the individual is stripped of this vital protective shield, the consequences can be severe and lifelong. The fracture of the family unit and loss of familial support, especially when resulting from unnatural or violent circumstances, are shown in empirical studies to substantially aggravate the risk for debilitating outcomes across all life facets.<sup>202</sup> This includes poor and fragile physical and mental health, increased likelihood of experiencing substance use and addiction, inferior educational and employment outcomes, social maladjustment, and difficulty serving as a healthy and productive member of society.<sup>203</sup> Furthermore, when family members are forced to witness violence against loved ones, they themselves become direct victims of the violence.<sup>204</sup> This phenomenon is known as “relational harm”—harm experienced due to connections to others and the violation, manipulation, or severing of intimate bonds with others.<sup>205</sup> Hence, violating the family unit and disrupting, destroying, or exploiting familial bonds, which lie at the core of *kinocide*, can therefore have profound physical and psychological implications.<sup>206</sup> In fact, the impact of forced family separation was shown to be so expansive and severe that in another context, it was equated to torture by the organization Physicians for Human Rights.<sup>207</sup>

Beyond the individual level, family relationships are the glue that holds society together and are among the key determinants of social cohesion.<sup>208</sup> When family units are destroyed, the foundations of society crumble. The targeting and dissolution of families weakens community bonds, undermines social stability, and interferes with the transmission of cultural values and norms.<sup>209</sup> Economically, there is evidence that the breakdown of family units increases poverty and reduces productivity, straining social services.<sup>210</sup> Thus, the unique nature of the violation of family units extends far beyond direct physical harm to individual victims and results in long-lasting adverse outcomes with multigenerational impacts, and affects the wider community and society as a whole.<sup>211</sup> This element is especially relevant and dominant with the specific communities chosen for the attack on October 7 – mainly the Kibbutzim and Moshavim – due to their unique communal, cooperative and collectivist characteristics and ideologies, and the mutual accountability, intimate familiarity and closeness among community members.<sup>212</sup>

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Foutz & Guodong (Gordon) Gao, *Huddling with Families After Disaster: Human Resilience and Social Disparity*, 17(9) PLOS ONE (2022).

202 A. S. Maste & A. J. Narayan, *Child Development in the Context of Disaster, War, and Terrorism: Pathways of Risk and Resilience*, 63(1) ANN. REV. PSYCH. 227 (2012); Benjamin A. Shaw, et al., *Emotional Support from Parents Early in Life, Aging, and Health*, 19(1) PSYCH. & AGING 4 (2004); Krista P. Woodward, et al., *Childhood Bereavement, Adverse and Positive Childhood Experiences, and Flourishing among Chinese Young Adults*, 20(5) INT. J. ENVIRON. RES. PUBLIC HEALTH 4631 (2023) (introduction); Kathryn R. Cullen, *Persistent Impairment: Life After Losing a Parent*, 175(9) AM. J. PSYCH. (2018); Maria C. Norton, et al., *Family Member Deaths in Childhood Predict Systemic Inflammation in Late Life*, 63(2) BIODEMOGRAPHY SOC. BIOL. 104 (2017); David A. Brent, et al., *Longitudinal Effects of Parental Bereavement on Adolescent Developmental Competence*, 41(6) J. CLIN. CHILD ADOLESC. PSYCH. 778 (2013).

203 Maste & Narayan, *supra* note 201; Shaw, et al., *supra* note 201; Woodward, et al., *supra* note 201; Cullen, *supra* note 201; Norton, et al., *supra* note 201; Brent, et al., *supra* note 201.

204 C. L. May & B. E. Wisco, *Defining Trauma: How Level of Exposure and Proximity Affect Risk for Posttraumatic Stress Disorder*, 8(2) Psych. Trauma 233 (2016).

205 Friedman & Ketola, *supra* note 21.

206 Friedman & Ketola, *supra* note 21.

207 Physicians for Human Rights, “You Will Never See Your Child Again”: The Persistent Psychological Effects of Family Separation (Feb. 2020), <https://phr.org/wp-content/uploads/2020/02/PHR-Report-2020-Family-Separation-Full-Report.pdf>.

208 Ajayi, et al. *supra* note 192; David Schiefer & Jolanda Van Der Noll, *The Essentials of Social Cohesion: A Literature Review*, 132 Soc Indic Res 579 (2017).

209 Simon Roberts, et al., *Literature Review on the Impact of Family Breakdown on Children*, the European Commission (2009), [https://research.edgehill.ac.uk/ws/portalfiles/portal/20060841/Impact\\_of\\_family\\_breakdown\\_on\\_children\\_final.pdf](https://research.edgehill.ac.uk/ws/portalfiles/portal/20060841/Impact_of_family_breakdown_on_children_final.pdf); Ann Mooney, Chris Oliver & Marjorie Smith, *Impact of Family Breakdown on Children’s Well-Being: Evidence Review*, DSCF Research Report No. DCSF-RR113 (2009), <https://core.ac.uk/download/pdf/4160412.pdf>; Natalie Bau & Raquel Fernández, National Bureau of Economic Research, *Culture and The Family* (June 2021), [https://www.nber.org/system/files/working\\_papers/w28918/w28918.pdf](https://www.nber.org/system/files/working_papers/w28918/w28918.pdf)

210 Bau & Fernández, *supra* note 208; Alberto Alesina & Paola Giuliano, National Bureau of Economic Research, *The Power of Family* (Apr. 2007), [https://www.nber.org/system/files/working\\_papers/w13051/w13051.pdf](https://www.nber.org/system/files/working_papers/w13051/w13051.pdf).

211 Friedman & Ketola, *supra* note 21. On the ties between family units and the economy, see also: *The 2030 Agenda for Sustainable Development*, adopted on 25 Sept. 2015

212 See explanation about the Kibbutz ideology and characteristics at: Ran Abramitzky, *The Limits of Equality: Insights from the Israeli Kibbutz*,

Acts of targeting and violation of families often also have a gendered dimension and often impact women and girls differently than men and boys. Female members of a family may be subjected to abuse as a tactic to disrupt familial lineage or as means to prevent the continuity of an ethnic group.<sup>213</sup> As we investigate the nature and impact of the weaponization and abuse of families, the gravity of such acts on women and girls should be further investigated and studied. For instance, from a gendered perspective, it is crucial to examine whether women and girls experienced different forms of violence, were impacted in distinct ways, or whether perpetrators intentionally exploited gender dynamics to intensify harm to families.<sup>214</sup> In many cases, perpetrators may deliberately manipulate gender norms, understanding that targeting women can have a profound, destabilizing effect on family structures and community resilience. Further investigation should also consider whether other factors such as age, gender, ethnic origin, and other identities intersect to shape these experiences. Such an approach enables a deeper understanding of the gender-specific impacts of family abuse in conflicts, providing a foundation for more nuanced studies and targeted interventions.

The family's pivotal role on the societal and individual levels necessitates the recognition of its significant vulnerability and potential for harm. These unique characteristics amplify the destructive and devastating effect of the targeted abuse (through, for example, abduction, killing, and other inhumane acts inflicted upon family members in each other's presence) and forced separation of families, as we observed in the October 7 attack, which infinitely exacerbates and exceeds the pain and suffering of other forms of individual victimization. It is one of the most clear-cut demonstrations of a situation where the whole far exceeds the sum of its parts.

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123(3) *The Quarterly Journal of Economics* 1111 (2008); Becky Sullivan, What is a kibbutz? The roots of Israel's communal villages where violence raged, NPR (Oct. 12, 2023), <https://www.npr.org/2023/10/12/1205284601/what-is-a-kibbutz-the-roots-of-israels-communal-villages-where-violence-raged>.

213 See examples from Rwanda and Bosnia and Herzegovina: Weitsman, *supra* note 18. There are records from past conflicts around the world of girls and young women targeted for sexual violence or gender-based abuse, sometimes in the presence of a spouse or other family members, with the intent of aggravating familial suffering, shattering the marital bond, or bringing shame on the family and violating cultural norms. See for example report coming out of Iraq of videotaped incidents of rape aimed at blackmail family members (US Department of State, *Iraq: Population silenced* (Dec. 2002), <https://2001-2009.state.gov/g/drl/rls/15996.htm>); Kozarić-Kovačić, et al., *supra* note 19. See also ICC The Office Of The Prosecutor Policy On Gender-Based Crimes, Crimes involving sexual, reproductive and other gender-based violence, Dec. 2023 (<https://www.icc-cpi.int/sites/default/files/2023-12/2023-policy-gender-en-web.pdf>); Committee on the Elimination of Discrimination against Women, General Recommendation No. 19 (1992) on violence against women; Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the Committee of the Rights of the Child; Special Rapporteur on traditional practices, Halima Embarek Warzazi, "Study on traditional practices affecting the health of women and children" (1991); E/CN.4/2002/83; and A/HRC/4/34.

214 See broader discussion in Indira Rosenthal, Valerie Oosterveld & Susana SáCouto, *Gender and International Criminal Law* (2022).





Photo by the Civil Commission (Nir Oz, Jun 19, 2024)

### III. The Protection of Families Under International Human Rights Law

*“[T]he widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children.”*

— **International Covenant on Economic, Social, and Cultural Rights**

The protection of the family is well-established in international human rights law (IHRL). Multiple IHRL instruments underscore the central role of the family as the foundation of societies and communities across cultures.<sup>215</sup> This important body of law should help inform and contribute to the development of international criminal law (ICL), which does not currently reflect the same level of robust protection to families.

IHRL instruments affirm states’ obligation to protect the family unit and emphasize the role of families in securing the basic human rights of their members.<sup>216</sup> These instruments have long recognized the positive functions of families and the importance of families for both their members and the broader community. The Universal Declaration of Human Rights (UDHR) considers the family to be the basic unit of society.<sup>217</sup> It establishes that every person has a right to create a family and to form family relations.<sup>218</sup> The International Covenant on Civil and Political Rights (ICCPR) similarly recognizes that “the family is the natural and fundamental group unit of society and is entitled to protection by society and the State.”<sup>219</sup> The Human Rights Committee (HRC) has elaborated on this right, emphasizing that the right to found a family implies “the possibility to procreate and live together ... [as well as the States’ obligation to ensure] the unity or reunification of families, particularly when their members are separated for political, economic, or similar reasons.”<sup>220</sup> The ICCPR further establishes a prohibition on arbitrary or unlawful interference with the family.<sup>221</sup>

Recognition of the family as the fundamental unit of society can also be found in the International Covenant on Economic, Social, and Cultural Rights which provides that “the widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children.”<sup>222</sup> Protection of the family, its members, and its ability to thrive is also guaranteed, directly or indirectly, by many other IHRL instruments and under multiple provisions.<sup>223</sup>

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215 Aside from the instruments mentioned in-text in this Section, recognition of the family as the fundamental unit of society can be found in the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (art. 44 (1)) and the Convention on the Rights of Persons with Disabilities (preamble, para. x). See also United Nations High Commissioner for Human Rights, “Protection of the family: contribution of the family to the realization of the right to an adequate standard of living for its members, particularly through its role in poverty eradication and achieving sustainable development”, UNGA, 31st Sess, UN Doc A/HRC/31/37 (2016). For a comprehensive analysis of international instruments pertinent for the protection of families under international human rights law, see Fareda Banda & John Eekelaar, *International Conceptions of the Family*, 66(4) INT’L COMPAR. L. Q. 833–62 (2017), <https://doi.org/10.1017/S0020589317000288>.

216 See e.g., A/HRC/31/37, *supra* note 215.

217 G.A. Res. 217 A (III), article 16 (3).

218 See *id.* at art. 16 (1).

219 The International Covenant on Civil and Political Rights (art. 23 (1)).

220 See Human Rights Committee, general comment No. 19 (1990) on the family, para. 5.

221 International Covenant on Civil and Political Rights (art. 17).

222 International Covenant on Economic, Social, and Cultural Rights (art. 10(1)).

223 Including the Convention on the Rights of the Child (fifth preambular paragraph), the Convention on the Elimination of Discrimination against Women and Committee on the Elimination of Discrimination against Women, general recommendations No. 21 and No. 29; the

Moreover, the importance of the wellbeing of families is recognized on the societal level due to its contribution to social development and prosperity. The 2030 Sustainable Development Agenda identified the role of families in achieving the Sustainable Development Goals, including eradicating poverty and creating just, inclusive, and secure societies.<sup>224</sup>

Human rights bodies have recognized that targeted violence against families can amount to a severe breach of the most basic of rights: the right to life, the right to bodily integrity and liberty, the right to protection from violence, abuse, exploitation, or torture, and the right to family.<sup>225</sup> Violating the family unit and disrupting or destroying familial bonds—which constitute the most primary relationships that support one’s physical, emotional, moral, cognitive, and social needs, especially during wartime—have profound physical and psychological implications.<sup>226</sup> Family members targeted as such experience compounded trauma, which can impact their physical, mental, and psychosocial health and development. Furthermore, as mentioned above, when family members are forced to witness violence against loved ones, they themselves become direct victims of the violence.<sup>227</sup> This impact violates the most fundamental of rights, transcends the individual and exerts a widespread multigenerational and societal effect.<sup>228</sup>

The role gender plays when families are concerned is also reflected in relevant ways in IHRL instruments. From a feminist perspective, gender is a central factor in shaping the family unit, where traditional roles and stereotypes often reinforce systems of inequality.<sup>229</sup> General Comment 29 of the Committee on the Elimination of Discrimination Against Women highlights that “women often do not equally enjoy their family’s economic wealth and gains. They usually bear the greater cost of the breakdown of the family than men and may be left destitute upon widowhood, especially if they have children and particularly where the State provides little or no economic safety net.”<sup>230</sup> During conflicts, these conditions and vulnerabilities are further exacerbated.<sup>231</sup> In addition, one of the fundamental aspects of the protection of families is the effective guarantee of the best interest

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International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (art. 44 (1)) and the Convention on the Rights of Persons with Disabilities (preamble, para. x); See also A/HRC/31/37; see also Starr & Brilmayer, *Family Separation as a Violation of International Law*, 21 BERKELEY J. INT’L L. 213, 228 (2003) (grouping several of these articles into the “Fundamental Group Unit” and clarifying that these types of provisions seek to protect the family unit as an institution).

224 The 2030 Agenda for Sustainable Development, adopted on 25 Sept. 2015; See also G.A. Press Release, GA/11594, “General Assembly, observing anniversary of international year, stresses essential role of family in socioeconomic development, argues over its proper definition,” 3 Dec. 2014. Available at [www.un.org/press/en/2014/ga11594.doc.htm](http://www.un.org/press/en/2014/ga11594.doc.htm); A/HRC/31/37, *supra* note 215.

225 See, e.g., Human Rights Committee, Communication No. 1889/2009, UN Doc No CCPR/C/110/D/1889/2009, 110th Sess. (2014) at paras 3.7–3.8, 7.4–7.12; Human Rights Committee, Communication No 2214/2012, 115th session, UN Doc No CCPR/C/115/D/2214/2012, 2015 at paras 3.7, 3.9, 6.7; Human Rights Committee, Communication No 2077/2011, 115th Sess, 2015, UN Doc No CCPR/C/115/D/2077/2011 at paras 2.4, 2.9, 2.10, 3.7–3.9, 8.5; Human Rights Committee, Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No. 2731/2016, 2021, UN Doc No CCPR/C/130/D/2731/2016 at paras 3.5, 6.1–7; Human Rights Committee, Views adopted by the Committee under Article 5(4) of the Optional Protocol, concerning communication No. 2615/2015, 2022, UN Doc No CCPR/C/132/D/2615/2015 at paras 3.5, 7.1–7.7; Human Rights Committee, Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication No 2790/2016, 2023, UN Doc No CCPR/C/137/D/2790/2016 at 3.4, 6.3–7; IACtHR, Case of Fornéron and daughter v. Argentina, Merits, Reparations, and costs, Judgment of Apr. 27, 2012, Series C No 242 at para 46–47, 112, 116, 124; I/A Court H.R., Case of the Río Negro Massacres v. Guatemala. Preliminary Objection, Merits, Reparations, and Costs. Judgment of September 4, 2012, Series C No. 250 at paras 139–150; I/A Court H.R., Case of Rochac Hernández et al. v. El Salvador, Merits, Reparations and Costs. Judgment of October 14, 2014, Series C No. 285 at paras 110–117. See also Fionnuala Ní Aoláin, Position of the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on the human rights of adolescents/juveniles being detained in North-East Syria, United Nations Human Rights Special Procedures (2021), available at: [https://www.ohchr.org/Documents/Issues/Terrorism/SR/UNSRCT\\_Position\\_human-rights-of-boys-adolescents-2021\\_final.pdf](https://www.ohchr.org/Documents/Issues/Terrorism/SR/UNSRCT_Position_human-rights-of-boys-adolescents-2021_final.pdf).

226 See, e.g., Friedman & Ketola, *supra* note 21.

227 See C. L. May & B. E. Wisco, *Defining Trauma: How Level of Exposure and Proximity Affect Risk for Posttraumatic Stress Disorder*, 8(2) PSYCH. TRAUMA 233 (2016).

228 Friedman & Ketola, *supra* note 21.

229 CEDAW, general recommendation No. 29; Beijing Declaration and Platform for Action, paras. 29 and 113–25.

230 CEDAW, general recommendation No. 29.

231 See, e.g., Resolution S/RES/1325; Resolution A/HRC/RES/45/28; ICC Policy on Gender-Based Crimes (Dec. 2023) <https://www.icc-cpi.int/sites/default/files/2023-12/2023-policy-gender-en-web.pdf>.



of the child.<sup>232</sup> The ICCPR specifically addresses the protection of the rights of the child, such as those of a member of a family.<sup>233</sup>

International standards do not prescribe a set concept or definition of the family unit. The HRC has repeatedly emphasized that the concept of family varies so widely that it is “not possible to give the concept a standard definition.”<sup>234</sup> This approach is intended to ensure the broadest possible protection. It acknowledges that a family is a social, legal, cultural, and political construct that differs across nations, religions, regions, and societies.<sup>235</sup> Hence, the exact definition of family may vary depending on the cultural, social, religious, economic, and historical context of a society or a particular community, as well as the unique life circumstances of its members.<sup>236</sup> The HRC has underscored the importance of recognizing and safeguarding these diverse forms of family units.<sup>237</sup>

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232 See International Convention on the Elimination of All Forms of Discrimination against Women, art. 5 (b); Convention on the Rights of the Child, art. 18 (1); see also, e.g., Convention on the Rights of the Child, art. 18 (2): “2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.” Additionally, the fifth preambular paragraph of the Convention states: “The States Parties to the present Convention ... convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community.”

233 Article 24.1 “Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.”

234 GC 19 para 2.

235 GC 19 para 2.

236 See also Committee on Economic, Social and Cultural, General Comment No. 4 (1991) on the right to adequate housing, para. 6; See also General Comment No. 5 (1994) on persons with disabilities, para. 30) (stating that that the concept of family must be understood in a broad sense and cannot be read today as implying any limitations upon individuals or female-headed households or other such groups on the basis of age, economic status, group or other affiliation or status and other such factors).

237 GC 19 para 2 (“the concept of the family may differ in some respects from State to State, and even from region to region within a State,



Photo by Zeev Stein/Pikiwiki Israel (Nir Oz, Nov 22, 2023)



The above-mentioned provisions underscore the comprehensive, multifaceted protection provided to various elements of family life and the family unit under IHRL. In contrast, ICL does not yet offer similarly rigorous protections for families. For example, the Rome Statute does not explicitly recognize the targeted abuse or exploitation of families, and the term *family* remains undefined within the Statute. The Rome Statute references families in only two procedural contexts: (1) the disclosure of information in court proceedings or international cooperation that might endanger the family members of witnesses or victims,<sup>238</sup> and (2) the establishment of a Trust Fund for the benefit of victims of crimes within the jurisdiction of the Court and of their families.<sup>239</sup> At the same time, ICL has shown openness in recent years to recognizing some aspects of harm against families through case law, as elaborated in the next section. Also, some crimes listed in the Rome Statute may be appropriately interpreted as offering protections relevant to families.<sup>240</sup> Nevertheless, ICL and the Rome Statute clearly lack the explicit language needed to address the deliberate exploitation of familial bonds and a nuanced conceptualization of the unique harms caused by their weaponization.

Therefore, the robust protections provided to the family unit by IHRL should inform the development of enhanced protections under ICL, to enable it to effectively address situations like the October 7 attack accurately and comprehensively. This need is particularly pressing in light of the heightened vulnerability of families during times of conflict, and the fact that families are targeted and attacked across the globe in ways that weaponize them to inflict maximum suffering, destruction, and terror.

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and that it is therefore not possible to give the concept a standard definition. ... In view of the existence of various forms of family, such as unmarried couples and their children or single parents and their children, States parties should also indicate whether and to what extent such types of family and their members are recognized and protected by domestic law and practice.); See also GC 16 of the HRC para 5 ("Regarding the term 'family', the objectives of the Covenant require that for purposes of article 17 this term be given a broad interpretation to include all those comprising the family as understood in the society of the State party concerned"); See also GC 4 para 6 ("The right to adequate housing applies to everyone. While the reference to 'himself and his family' reflects assumptions as to gender roles and economic activity patterns commonly accepted in 1966 when the Covenant was adopted, the phrase cannot be read today as implying any limitations upon the applicability of the right to individuals or to female-headed households or other such groups. Thus, the concept of 'family' must be understood in a wide sense.');

238 Rome Statute art. 68, "Protection of the victims and witnesses and their participation in the proceedings" and art. 87.

239 Rome Statute art. 79.

240 Discussed in Section VI.

## IV. Kinocide in the Global Context

Despite not being named or fully understood as such, the weaponization of families as a phenomenon is neither new nor unique to the October 7 attack. Similar conduct and tactics targeting familial bonds have been documented throughout history. This section identifies several examples from the 19th and 20th centuries that exhibit elements of *kinocide*, including the Armenian Genocide, the Kiev pogroms, and the cultural genocide of the Indigenous people in Canada.

While far from exhaustive, the examples below come from vastly different regions, periods, and types of conflict. They are also fueled by a variety of underlying motives, ranging from curtailing political opposition, weakening opponents, punishment, intimidation, and information extraction, to the advancement of ethnic cleansing campaigns. What ties all these examples together is the systematic use of tailored violent and abusive measures against the family that exploit the delicate familial dynamic and familial bonds to exert harm and destruction. Despite the reoccurrence of acts of this nature, they lack an official label that names and groups them as a distinct category of conduct or phenomenon. As the research process for this report revealed, this fact challenged our ability to identify and uncover these acts. Consequently, their frequency, prevalence, distribution, intensity, and scope remain largely obscured and inadequately understood.<sup>241</sup> Furthermore, thus far, victims lacked an appropriate language to express their unique experiences and suffering. Similarly, as demonstrated by the case law analysis at the end of this section, the lack of clear and accurate terminology poses a challenge to authorities and tribunals to address these violent acts in a manner that accurately accounts for the true nature and injurious outcomes of the deeds, including those that continue to unfold globally.

During the Armenian genocide in Ottoman Turkey, the physical abuse, torture, and rape of female relatives were used to intimidate the Armenian leadership and curtail resistance.<sup>242</sup> Armenian women and children were raped in front of family members.<sup>243</sup> Victims testified that government officials and soldiers would “snatch young girls and women and after doing all sorts of bad things to them, they would return them bloody or dead to their mothers.”<sup>244</sup> Due to their role as protectors and heads of the family, Armenian men were separated from their families and “eliminated,” with the goal of leaving the remaining members of the family, namely women, children and the elderly, vulnerable and defenseless.<sup>245</sup> Government orders were established to legalize the kidnapping of children from their families.<sup>246</sup> Children often had to witness their parents being killed before being taken away.<sup>247</sup> The children were then placed in government-run orphanages for “re-education,” distributed among Turkish families, entered into forced marriages, or used for sex slavery or servitude.<sup>248</sup>

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241 On the benefits and importance of labels and accurate terminology see: Gil Avriel, *Terrorism 2.0: The Rise of the Civilitary Battlefield*, 7 *Harvard National Security Journal* 199 (2016).

242 Katharine Derderian, *Common Fate, Different Experience: Gender-Specific Aspects of the Armenian Genocide, 1915–1917*, 19(1) *HOLOCAUST GENOCIDE STUD.* 1, 5 (2005).

243 Derderian, *supra* note 242.

244 Derderian, *supra* note 242.

245 *Id.*

246 Although it was claimed that the policy is directed toward orphans, it was then explicitly expanded to include “children likely to become parentless during the transportation of Armenians.” See Edita Gzoyan, et al., *Reclaiming Children After the Armenian Genocide: Neutral House in Istanbul*, 33(3) *HOLOCAUST GENOCIDE STUD.* 395, 397 (2019).

247 Niepage, *supra* note 243.

248 Gzoyan, et al., *supra* note 245.



Photo by Ziv Koren (Be'eri, Oct 28, 2023)

The perpetrators of the Kiev pogroms, for example, recognized early on that they could maximize suffering by weaponizing the familial bond.<sup>249</sup> Well-established reports confirm systematic rape of women and children in front of their husbands and relatives.<sup>250</sup> Also, parents were made to witness the murder of their children, and vice versa.<sup>251</sup>

From 1883 to the 1990s, as part of a pattern of policies found to constitute a cultural genocide against Indigenous peoples, the Canadian government and Christian churches separated approximately 150,000 Indigenous children from their families and placed them in residential schools.<sup>252</sup> Canada's first Prime Minister, Sir John A. Macdonald, stated that the schools aimed to remove "Indian children...

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249 See Irina Astashkevich, "The Perfect Weapon: Mass Rape as Public Spectacle." *Gendered Violence: Jewish Women in the Pogroms of 1917 to 1921*, Academic Studies Press, 2018, pp. 38–52, 49. *JSTOR*, <https://doi.org/10.2307/j.ctv75d7p97> (accessed Aug. 25, 2024).

250 See, e.g., Astashkevich, *supra* note 248.

251 *Id.*

252 Kimberly Matheson et al. Canada's Colonial Genocide of Indigenous Peoples: A Review of the Psychosocial and Neurobiological Processes Linking Trauma and Intergenerational Outcomes 19(11) *Int'l J. Env't'l Research & Public Health* (2022); Truth and Reconciliation Commission of Canada, Canada's Residential Schools: The History, Part 2 1939 to 2000 *The Final Report of the Truth and Reconciliation Commission of Canada*, Volume 1 (Montreal, Quebec & Kingston, Ontario: McGill-Queen's University Press, 2015), especially at 12; Truth and Reconciliation Commission of Canada, *What We Have Learned: Principles of Truth and Reconciliation* (Truth and Reconciliation Commission of Canada, 2015) at 6. [hereinafter *What We Have Learned*].

as much as possible from the parental influence” to prevent them from becoming “savage” like their parents.<sup>253</sup> According to the Truth and Reconciliation Commission of Canada, residential schools aimed to destroy the social institution of the family,<sup>254</sup> to further an underlying objective of destroying “the political and social institutions of the targeted group.”<sup>255</sup> At the schools, staff systematically, physically, and emotionally abused children if they spoke their own languages;<sup>256</sup> sought to see their siblings;<sup>257</sup> or cried from missing their families.<sup>258</sup> The conduct of school staff resulted in survivors’<sup>259</sup> long-term alienation from their families and feelings of shame and resentment,<sup>260</sup> which were further exacerbated by their lack of training in Indigenous language and culture.<sup>261</sup> This alienation, alongside the community’s loss of parenting skills, has reverberated down the generations.<sup>262</sup>

In more recent history, similar practices that target families and the familial bond have been documented. They have been used as effective and efficient strategic measures to curtail political opposition, weaken and dehumanize adversaries, institute punishment, and/or advance ethnic cleansing campaigns in Argentina,<sup>263</sup> Cambodia,<sup>264</sup> Iraq,<sup>265</sup> Syria,<sup>266</sup> Sierra Leone,<sup>267</sup> Myanmar,<sup>268</sup> Rwanda,<sup>269</sup> Sudan,<sup>270</sup> and Ukraine,<sup>271</sup> among others.

During the Argentinian military dictatorship from 1976 to 1983, many pregnant women are reported to have been “disappeared” and detained, with at least 500 babies born in detention centers as a result.<sup>272</sup> These babies, as well as other children of families considered to be dissidents, were systematically stolen and placed with families who ideologically aligned with the dictatorship.<sup>273</sup>

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253 *What We Have Learned*, *supra* note 251 at 6.

254 *Id.* at 1–2.

255 *Id.* at 1.

256 TRC, *The Survivors Speak: A Report of the Truth and Reconciliation Commission of Canada* (Truth and Reconciliation Commission of Canada, 2015) [hereinafter *The Survivors Speak*] at 47–55.

257 *Id.* at 91–94.

258 *Id.* at 112–14.

259 During this time, residential schoolchildren died at a rate of 8,000 per 100,000, whereas similarly aged Canadian children in general died at a rate of 430 per 100,000: Scott Hamilton, *Where Are the Children Buried?: Report to the Truth and Reconciliation Commission of Canada*, 3–4.

260 *The Survivors Speak* at 104–9.

261 *Id.* at 105–7.

262 *Id.* at 12.

263 Cecilia de Baggis, Magdalena Jiménez Naharro & Susanna Pallini, *The Children of the Argentinean Desaparecidos: Traumatic Attachment-Related Experiences* 137 *Children and Youth Services Review* (2022).

264 Samantha Power, *A Problem from Hell* (New York: HarperCollins, 2002) at 107, 117.

265 U.S. Department of State, *Iraq: A Population Silenced*, Dec. 2002, <https://2001-2009.state.gov/g/drl/rls/15996.htm>.

266 See Souleimanov, Siroky, Krause, *Kin Killing: Why Governments Target Family Members in Insurgency, and When it Works* (Security Studies, Summer 2022) p.1 (“The Assad regime threatened, expelled, disappeared, and executed the family members of insurgents to coerce them to stop fighting.”); Amnesty International *Between Prison and the Grave: Enforced Disappearances in Syria* p.7.

267 *The Prosecutor vs. Taylor*, SCSL-03-01-T-1283, p 346–7, paras 872, 876 (Judgement, 2003).

268 Amnesty international, *Myanmar 2023*, Office of the High Commissioner for Human Rights, A/HRC/52/21: *Situation of human rights in Myanmar since 1 Feb. 2022* – Report of the United Nations High Commissioner for Human Rights (03 Mar. 2023).

269 See *The Prosecutor v. Jean-Paul Akayesu* (Judgement), ICTR-96-4-T, International Criminal Tribunal for Rwanda (ICTR), 2 Sept. 1998, <https://ucr.irmct.org/LegalRef/CMSDocStore/Public/English/Judgement/NotIndexable/ICTR-96-04/MSC15217R0000619817.PDF> (accessed Aug. 23, 2024), 430–431.

270 Human Rights Watch, “Khartoum is not Safe for Women!”: Sexual Violence against Women and Girls in Sudan’s Capital (2024).

271 <https://www.amnesty.org/en/latest/news/2024/05/russia-authorities-targeting-children-in-their-crusade-against-anti-war-dissent/>; US house of Representative, H. RES. 149 *Condemning the illegal abduction of children from Ukraine to the Russian Federation* (Feb 21, 2023), <https://www.congress.gov/118/bills/hres/149/BILLS-118hres149ih.pdf>; <https://press.un.org/en/2023/sc15395.doc.htm>; <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and>; <https://www.csce.gov/press-releases/hearing-eyewitness-accounts-ukrainian-children-and-adult-civilians-abducted-by-russia/>

272 Inter-American Court of Human Rights (hereinafter IACTHR), *Case Gelman v Uruguay. Merits and Reparations. Judgment of February 24, 2011 Series C No 221* at paras 44–63, 120; Cecilia de Baggis, Magdalena Jiménez Naharro & Susanna Pallini, “The children of the Argentinean desaparecidos: Traumatic attachment-related experiences” (2022) 137 *Children and Youth Services Review*.

273 IACTHR, *supra* note 272 at paras 61–63.



Saddam Hussein's Iraqi government routinely targeted families of dissidents as a form of punishment. A report by the U.S. Department of State asserts that Iraqi citizens were often shot or decapitated in front of family members.<sup>274</sup> Citizens were "publicly beheaded, and their families [were] required to display the heads of the deceased."<sup>275</sup> Furthermore, it is reported that children were taken hostage,<sup>276</sup> and women were "raped and often videotaped during rape to blackmail their families."<sup>277</sup>

Similarly, in Sierra Leone, the Trial Chamber of the Special Court for Sierra Leone found that women and girls were repeatedly raped in the presence of husbands or other family members.<sup>278</sup> Further, the rebels forced civilians to commit incest: brothers forced to rape sisters, and fathers forced to rape their daughters.<sup>279</sup>

According to Amnesty International, Assad's regime in Syria threatened, expelled, disappeared, and executed family members of insurgents and individuals wanted by the security forces, usually to dissuade those individuals from continuing their political or military activities.<sup>280</sup> In a different report, Amnesty International recounts the detention and forced disappearance of the relatives of political opponents by Myanmar's military authorities as a form of retribution.<sup>281</sup> In Rwanda, the government was reported to exploit familial bonds by threatening family members of political opponents. According to Human Rights Watch, relatives of political activists have "been targets of arbitrary detention, torture, suspected assassinations, harassment, and restrictions on movements to exert pressure on their family members abroad to stop their activism."<sup>282</sup> The Khmer Rouge in Cambodia also repeatedly used the family as a weapon to punish dissidents and sought to break down the institution of the family. They executed wives of their political opponents, equating them with their opponents themselves, and influenced children to be informants against their parents.<sup>283</sup>

Along the Iraq-Syria border, in the Sinjar region, ISIS genocidal atrocities against the Yazidi people also targeted and exploited familial bonds. Families were systematically forced to separate.<sup>284</sup> Children were taken away from their parents and sold to slavery or placed with ISIS fighters to indoctrinate them into Islam and erase their Yazidi identities and beliefs.<sup>285</sup> Family members were forced to watch their loved ones executed, tortured and raped.<sup>286</sup> Evidence shows the long-term severe harms of these acts, as children who were later returned to their families, suffering from extreme trauma and mental health challenges, struggled to reintegrate and rekindle the relationship

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274 U.S. Dept. of State, *Iraq: A Population Silenced*, Dec. 2002, <https://2001-2009.state.gov/drl/rls/15996.htm>.

275 *Id.*

276 See U.S. Dept. of State, *supra* note 273.

277 U.S. Department. of State, *supra* note 273. *Iraq: A Population Silenced* (Dec. 2002), <https://2001-2009.state.gov/drl/rls/15996.htm>

278 *The Prosecutor vs. Taylor*, SCSL-03-01-T-1283, p. 346–47, paras 872, 876 (Judgment, 2003).

279 *Id.* at 347–48.

280 See Amnesty International *Between Prison and the Grave: Enforced Disappearances in Syria* p.7, [https://www.amnesty.org.uk/files/embargoed\\_-\\_between\\_prison\\_and\\_the\\_grave\\_final.pdf](https://www.amnesty.org.uk/files/embargoed_-_between_prison_and_the_grave_final.pdf); See also [https://www.researchgate.net/publication/355999328\\_Kin\\_Killing\\_Why\\_Governments\\_Target\\_Family\\_Members\\_in\\_Insurgency\\_and\\_When\\_it\\_Works\\_Security\\_Studies\\_Summer\\_2022](https://www.researchgate.net/publication/355999328_Kin_Killing_Why_Governments_Target_Family_Members_in_Insurgency_and_When_it_Works_Security_Studies_Summer_2022)

281 See Amnesty International, *Myanmar 2023*. These reports from Myanmar are also confirmed by Human Rights Watch (<https://www.hrw.org/news/2021/04/02/myanmar-hundreds-forcibly-disappeared>)

282 Human Rights Watch, "Join Us or Die: Rwanda's Extraterritorial Repression (Oct. 10, 2023), <https://www.hrw.org/report/2023/10/10/join-us-or-die/rwandas-extraterritorial-repression>

283 Samantha Power, *A Problem from Hell* (New York: HarperCollins, 2002) at 107, 117.

284 United Nations Human Rights Council (hereinafter UNHRC), "They Came to Destroy": *ISIS Crimes Against the Yazidis*, A/HRC/32/CRP.2 (June 15, 2016), [https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/ColSyria/A\\_HRC\\_32\\_CRP.2\\_en.pdf](https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/ColSyria/A_HRC_32_CRP.2_en.pdf).

285 Amnesty International, *Iraq: Legacy of Terror: The Plight of Yazidi Child Survivors of ISIS* (July 29, 2000), <https://www.amnesty.org/en/documents/mde14/2759/2020/en/>; UNHRC, *supra* note 284.

286 *Legacy of Terror*, *supra* note 284, at 14, 37; UNHRC, *supra* note 284.

with their families.<sup>287</sup> With similar genocidal motives, Serb fighters in Bosnia sought to break down the institution of the family to advance their campaign of ethnic cleansing. To do so, they forced family members to commit atrocities against one another, for example, forcing fathers to sexually abuse their children.<sup>288</sup>

Even more recently, in Sudan, parties to the ongoing civil war which broke out on April 15, 2023, the Rapid Support Forces (RSF) and Sudanese Armed Forces (SAF), have targeted families in the context of the war in the capital Khartoum and ongoing genocide in Darfur.<sup>289</sup> Mostly the RSF, but also SAF have raped<sup>290</sup> and brutalized<sup>291</sup> individuals in front of family members. RSF forces are reported to have killed babies in front of their parents.<sup>292</sup> Family members report trying to protect their loved ones from the violence but found their efforts futile as perpetrators point guns at them to prevent intervention.<sup>293</sup> Further, RSF forces have separated families, and destroyed family homes, razing entire villages to the ground.<sup>294</sup> The Raoul Wallenberg Centre for Human Rights found that “[t]his destruction of [Masalit] shelters, homes, means of survival, and infrastructure directly imperils community survival, *tears families apart.*”<sup>295</sup>

In Ukraine, Russian authorities are accused of separating families and abducting Ukrainian children into Russia.<sup>296</sup> Credible reports confirm that this tactic is used as a form of punishment and as a strategy to put pressure on families opposing Russia’s war of aggression. These children are often institutionalized in re-education camps or forcibly adopted into Russian families to “strip away” the Ukrainian heritage of their families and to indoctrinate them into Russian culture.<sup>297</sup> The forced disappearance of children is also reported to have been used by the Sinhalese government of Sri Lanka as a control tactic over the Tamil minority during the civil war.<sup>298</sup>

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287 See e.g. *Legacy of Terror*, *supra* note 284, at 37.

288 Samantha Power, *A Problem from Hell* (New York: HarperCollins, 2002) at 251.

289 In an independent legal analysis released in April 2024, endorsed by 29 experts, the Raoul Wallenberg Centre for Human Rights found clear and compelling evidence that the RSF and allied militias were committing genocide against the Masalit in Darfur, and reasonable grounds to believe that the RSF and allied militias were committing genocide against other non-Arab groups in Darfur: Mutasim Ali & Yonah Diamond, *Breaches of the Genocide Convention in Darfur, Sudan: An Independent Inquiry 2024* (Montreal: Raoul Wallenberg Centre for Human Rights, 2024).

290 Human Rights Watch, “Khartoum Is Not Safe for Women!”: Sexual Violence against Women and Girls in Sudan’s Capital (Human Rights Watch, 2024) [hereinafter *Khartoum Is Not Safe*]; Mutasim Ali & Yonah Diamond, *Breaches of the Genocide Convention in Darfur, Sudan: An Independent Inquiry 2024* (Montreal: Raoul Wallenberg Centre for Human Rights, 2024) at 27.

291 Ali & Diamond, *supra* note 289 at 31 at 37.

292 *Id.* at 31.

293 *Khartoum Is Not Safe*, *supra* note 289.

294 Ali & Diamond, *supra* note 289 at 24.

295 *Id.* at 38 [emphasis added].

296 Amnesty International, *Russia: Authorities targeting children in their crusade against anti-war dissent* (May 31, 2024), <https://www.amnesty.org/en/latest/news/2024/05/russia-authorities-targeting-children-in-their-crusade-against-anti-war-dissent/>; US house of Representative, H. RES. 149 Condemning the illegal abduction of children from Ukraine to the Russian Federation (Feb. 21, 2023), <https://www.congress.gov/118/bills/hres/149/BILLS-118hres149ih.pdf>; U.N. Security Council, *Deportation, Treatment of Ukraine’s Children by Russian Federation Take Centre Stage by Many Delegates at Security Council Briefing*, U.N. Press Release SC/15395 (August 24, 2023), <https://press.un.org/en/2023/sc15395.doc.htm>; International Criminal Court (ICC), *Situation in Ukraine: ICC judges issue arrest warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova*, ICC Press Release (March 17, 2023), <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and-maria-alekseyevna-lvova-belova>; Commission of Security and Cooperation In Europe, U.S. Helsinki Commission, *Hearing Notice – Eyewitness Accounts: Ukrainian Children and Adult Civilians Abducted by Russia* (Jan. 2024), <https://www.csce.gov/press-releases/hearing-eyewitness-accounts-ukrainian-children-and-adult-civilians-abducted-by-russia/> 31, 2024), <https://www.csce.gov/press-releases/hearing-eyewitness-accounts-ukrainian-children-and-adult-civilians-abducted-by-russia/>

297 Amnesty International, *supra* note 295; US house of Representative, *supra* note 295; U.N. Security Council, *supra* note 295; Commission of Security and Cooperation In Europe, *supra* note 295; ICC, *supra* note 295;

298 See Friedman & Ketola, *supra* note 21 (“One of the principal harms inflicted by disappearances is that Tamil families lived in a constant fear of disappearances. The threat of disappearances (for oneself or one’s loved ones) was used to elicit information about the LTTE and sympathizers and to deter the civilian population from joining and supporting the LTTE.”). See also, UN Human Rights Office, *Accountability for Enforced Disappearances in Sri Lanka*, 17 May 2024.

It is noteworthy that reports addressing human rights violations and war crimes do not often explicitly focus on the nature of such acts as the targeted abuse of families or address and account for their unique impact as a result of the weaponization and exploitation of the family unit. Thus, despite the prevalence and severity of such acts, their documentation as crimes against families is surprisingly sparse and difficult to identify. This is likely due to existing legal frameworks and definitions of international criminal law, which do not sufficiently recognize the unique harms to families and lack a familial lens through which such acts can be scrutinized. In adopting the concept of kinocide, the legal community can provide a vital new language and tools for examining the crimes of the past, present, and future. It can also capture the unique harm being perpetrated and suffered.

International criminal tribunals have also struggled to address family weaponization. While a comprehensive presentation of pertinent case law is beyond the scope of this report, two cases: one focusing on the conflict in Bosnia and the other on the conflict in Uganda illustrate this struggle and the appreciation of the practical necessity of addressing the harms caused by such victimization of families.

The International Criminal Tribunal for the former Yugoslavia (ICTY) *Kupreškić* case from 2000 revolves around the war in Bosnia at the turn of the previous century.<sup>299</sup> In *Kupreškić*, the accused's conduct closely resembles the practices described in this report. In that case, allegedly, two of the accused entered the house of a Bosnian family,<sup>300</sup> shot several family members—adults and children alike—and set the house on fire.<sup>301</sup> Only one family member managed to flee the flaming house, suffering burns, while the others died.<sup>302</sup> The accused were charged under the tribunal's statute<sup>303</sup> with murder, both as a crime against humanity and as a violation of international humanitarian law (IHL).<sup>304</sup> They were also charged with the crime against humanity of committing "other inhumane acts" and a violation of IHL prohibition on "cruel treatment,"<sup>305</sup> for "killing [the witness's] family before his eyes and causing him severe burns by burning down his home while he was still in it."<sup>306</sup> The accused were ultimately acquitted of these charges because of the absence of evidence regarding the accused's participation in the alleged incidents.<sup>307</sup> Yet the charges themselves indicate that international tribunals have had to contend with extreme abuse of families. Since kinocide focuses precisely on such conduct, its adoption into substantive ICL would have enabled the examination of the acts in *Kupreškić* through the kinocide lens to more accurately reflect and account for the full impact and severity of the infliction of aggravated pain and suffering in light of familial relationships.

There have been some relevant advances in ICL in the decades since *Kupreškić*. These were predominantly not in substantive law but in the development of a robust typology of harms recognized for purposes of *reparations* for victims, which includes references to harms to families.<sup>308</sup>

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299 *Prosecutor v. Kupreškić*, Case No. IT-95-16-T, Judgment, Trial Chamber (Jan. 14, 2000)

300 *Id.*, at para 34.

301 *Id.*

302 *Id.*

303 Updated Statute of the International Criminal Tribunal for the Former Yugoslavia, Sept. 2009, [https://www.icty.org/x/file/Legal%20Library/Statute/statute\\_sept09\\_en.pdf](https://www.icty.org/x/file/Legal%20Library/Statute/statute_sept09_en.pdf).

304 See, *Kupreškić*, *supra* note 298, 642–649 (noting that article 3 of the ICTY statute incorporates, as a war crime, the prohibition on murder as recognized by Article 3(a)(1) of the Geneva Conventions).

305 See, *Kupreškić*, *supra* note 298, 650 (noting that article 3 of the ICTY statute incorporates, as a war crime, the prohibition on cruel treatment, recognized by the Geneva Conventions).

306 See, *Kupreškić*, *supra* note 298, 35.

307 See, *Kupreškić*, *supra* note 298, 785–87, 792–94.

308 See, e.g., *The Prosecutor v. Bosco Ntaganda* (Reparations Order), ICC-01/04-02/06-2659, International Criminal Court (ICC), Mar. 2021

For instance, most recently, in 2024, the International Criminal Court (ICC) has explicitly addressed the trauma, pain, and suffering of families in Uganda who were forced to endure the systematic murder, rape, and abduction of their family members in its reparation order in the *Ongwen* case.<sup>309</sup> The ICC relied on a combination of concepts, such as “community harm”<sup>310</sup> as well as “transgenerational harm,”<sup>311</sup> “moral harm,”<sup>312</sup> and “material harm”<sup>313</sup> to describe harms related to abuse of families and exploitation of familial bonds. In the reparation order, the ICC listed the moral and material harms when family members are separated from one another;<sup>314</sup> family members are physically injured in front of one another;<sup>315</sup> family members are killed in front of one another;<sup>316</sup> and children are taken hostage without their parents.<sup>317</sup> Additionally, the ICC acknowledged the psychological harm of witnessing the abduction, death, or rape of a family member;<sup>318</sup> and the long-term consequences of witnessing these atrocities on the family unit.<sup>319</sup>

Lacking the substantive crime of kinocide, however, the ICC could not sufficiently surface these elements of family victimization in the court’s guilty judgment and only addressed kinocidal conduct in an indirect and limited manner through a reparation order. Both the victims and the ICC could have benefited from the recognition of the crime of kinocide by the international community, either under existing ICL instruments or through the codification of a new crime, enabling a more comprehensive understanding of its unique harm and a better account of the nature, impact, and severity of the conduct described above, are clear examples of kinocide.<sup>320</sup>

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(accessed Aug. 29, 2024), 78–85.

309 See *Ongwen Reparations Order*, *supra* note 49.

310 *Id.*, at 168.

311 *Id.*, at 179.

312 *Id.*, at 268.

313 *Id.*, at 256.

314 See *Id.*, at 268–69 (acknowledging the “pain of missing a family member who was either killed or abducted; deploring the trauma caused to an abducted family member;” the pain of “hav[ing] a family member who is ‘mentally unstable;” the “frustration for not having been able to defend a family member from becoming a victim of a crime; and the suffering from the lack of information about the whereabouts of an abducted family member.”); *Id.*, at 369 (acknowledging the “feelings of abandonment caused by the separation from their families . . .”).

315 See, e.g., *Id.*, at 268 (“frustration for not having been able to defend a family member from becoming a victim of a crime.”).

316 See, e.g., *Id.*, at 261 (acknowledging the emotional impact of a child seeing their families’ dead bodies); *Id.*, at 268 (acknowledging the “pain of seeing a family member being killed; pain of missing a family member who was either killed or abducted” and the “frustration for not having been able to defend a family member from becoming a victim of a crime.”); *Id.*, at 269 (acknowledging the “pain associated with the loss of a family member; spiritual disturbances; deprivation of love, care and support from a deceased family member; . . . pain for seeing a family member being killed or raped.”).

317 See *Id.*, at 269 (acknowledging the “shock, fear, and panic for the abducted children well-being.”).

318 *Id.*, at 333–40 (acknowledging the “psychological harm; psychological pain and frustration; shock; fear; panic; suffering from the separation of families; constant worry and profound agony from the lack of any information of the victims’ well-being; post-traumatic stress disorder symptoms; social sense of hopelessness or lack of future vision; emotional burden of taking care of victims after their return; constant nightmares; psychosocial disturbance caused to family structures; emotional burden of taking care of victims’ children in captivity; sadness for the crimes suffered by their relatives; and stigmatization because of being a relative of a child fathered by an LRA soldier. The Chamber further acknowledges that the moral harm suffered by the indirect SGBC victims had long-lasting consequences.”).

319 See *Id.*, at 346 (“The material harm suffered by these victims includes: economic loss associated with providing for victims and their children born in captivity upon their return; loss of income from SGBC victims that are not contributing to their families; difficulties to find marriage for the victims; and disruption of social roles and household tasks. The Chamber further acknowledges that the material harm suffered by the indirect SGBC victims had long-lasting consequences.”); *Id.*, at 399–407 (“the deaths, abductions, and separation of families caused significant disruption to family structures, duties, and responsibility, as well as the rejection of some family members.”); *Id.*, at 269 (The Chamber acknowledges that the moral harm suffered by the indirect victims of the attacks had long-lasting consequences.”); *Id.*, at 270–75 (“the loss of help and support previously provided by family members who were killed or abducted.”).

320 On the benefits and necessity of using accurate terminology see Avriel, *supra* note 240.



## V. Kinocide as a New International Crime

As demonstrated by previous sections, the limitations of existing international criminal law (ICL) underscore the pressing need to recognize kinocide as a new international crime. Such acknowledgment is essential for effectively addressing and prosecuting acts specifically directed against families and exploiting familial bonds, ensuring this particularly heinous and harmful conduct is met with appropriate legal responses – enabling protection, prevention, and accountability.

Exploring potential avenues for integrating kinocide into ICL is crucial. In principle, there are two main paths for promoting the recognition of the crime of kinocide in international law: using existing legal tools or creating new ones. First, the abuse of families and exploitation of familial bonds can be integrated through interpretive or more formal means into existing legal frameworks as (1) a crime against humanity, (2) a war crime, (3) a form of genocide, and (4) a form of torture. Second, it can be integrated into ICL through new legal instruments, most specifically, the Draft Crimes Against Humanity Treaty or a new international convention dedicated to kinocide. The key comparative benefits of each path are the ease and immediacy of integration for the first, and comprehensiveness of coverage for the second. We recommend pursuing both paths while prioritizing the first, due to the urgency of the need to integrate kinocide into ICL.

Before discussing these two paths in detail, however, we must provide a more precise, nuanced account of kinocide, both conceptually and legally. We start by examining the two key conceptual features that set kinocide apart from other international crimes: the unique evil it addresses and the distinct focus it employs. Next, we explore key considerations for defining the crime of kinocide, provide an outline for a preliminary definition of this crime and discuss its mental element.

### A. Key Conceptual Features of Kinocide

Two key conceptual features distinguish kinocide from other international crimes and underscore the necessity of recognizing its distinct nature. First, kinocide addresses a unique evil inherent to the abuse and exploitation of families. Second, acts of kinocide specifically focus on the family unit, while other international crimes, such as genocide, focus on a broader collective or a protected group.

#### i. Unique evil

One of the key objectives of ICL is to sanction special types of evil—a distinct category of particularly heinous acts that cause grievous harm to individuals and society.<sup>321</sup> Kinocide typifies this category. The unique evil of kinocide lies in the abuse and exploitation of families and the concomitant damage and destruction it wreaks upon the fundamental institution of the family, stripping family members of its protective features, causing them relational harm, and exacerbating their terror, anguish, and pain.<sup>322</sup> Accordingly, the very concept of kinocide is designed to take into account

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<sup>321</sup> David Luban, *A Theory of Crimes Against Humanity*, 29 *YALE J. INT'L L.* 85, 86–91, 117–19 (2004). Compare *The Prosecutor v. Dominic Ongwen (Trial Judgment)*, ICC-02/04-01/15, International Criminal Court (ICC), 4 Feb. 2021, [https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2021\\_01026.PDF](https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2021_01026.PDF) (accessed Aug. 29, 2024) ¶ 2722 [hereinafter *Ongwen Trial Judgment*] (noting, in the context of the crime of forced pregnancy, that the specific nomenclature “implicates the principle of fair labelling, and how the proper characterization of the *evil* committed, that is to say, calling the crime by its true name, is part of the justice sought by the victims.” (emphasis added); Richard Vernon, *What Is Crime Against Humanity?* 10 *J. POL. PHIL.* 231, 241–46 (2002) (cited in Luban et al., *INT'L TRANSNAT'L CRIM. L.*, 885–86 (2024)).

<sup>322</sup> See Sections II, IV and the sources collected there, *supra*.

the family unit's distinct traits, its vulnerability, and its multifaceted importance to the individual and to society.<sup>323</sup>

Indeed, the experiences of specific families (e.g., the live-streamed ordeal of the Idan family) and the general patterns and factual sequences presented throughout this report elucidate the force and brutality of how kinocide shatters and devastates family ties (as well as communal and societal structures more generally). They also shed light on the broad range of documented debilitating, long-lasting outcomes empirically associated with such violent breakdown of families and underscore the inadequacy of existing international crimes to fully convey the extent of this human suffering.<sup>324</sup>

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323 See Sections II–III and the sources collected there, *supra*.

324 See Section I and the sources collected there.



Photo by the Civil Commission (Kfar Aza, Jun 16, 2024)

To further clarify what constitutes kinocide, it is crucial to articulate with greater precision the nature of this evil and the significant harm it inflicts on families. First, *kinocidaires* (those committing kinocide) intrude into intimate and vulnerable familial spaces, transforming them from spheres of inviolability and safety to sites of terror, subjugation, and mortal danger. Second, the intrusion and subsequent conduct exert enormous pressure on families and their intricate relationships. Family members' helplessness and coerced responses to these pressures can have devastating effects on their conceptions of selves—on their very identity. Third, kinocidaires prey upon the familial feelings of love, empathy, and selflessness and cruelly exploit them. Instead of benefiting family members, these feelings—the best qualities of humanity—are subverted and weaponized to serve kinocidaires' inhumane ends.<sup>325</sup> It is this kind of direct assault on the very traits for which people cherish the institution of the family, the destruction and exploitation of these features, and their harrowing human consequences that account for the unique evil and the distinctly devastating impact inherent in kinocide.

In this context, it is essential to highlight a crucial distinction. The deliberate, coordinated, and organized assault on families is fundamentally different from the suffering that families endure during war. This is not intended to diminish the tragic consequences of war, but rather to emphasize the unique and extreme nature of kinocide. The intentional targeting and weaponization of families represent a profound cruelty that requires clear and thoughtful consideration and response.

## ii. Focus on the family

Flowing directly from the unique evil and distinct harms the crime of kinocide seeks to address, another distinguishing feature of kinocide is its specific conceptual focus on the family. Conceptually, such a focus is fairly simple and seems straightforward. At the same time, it entails a substantive paradigm shift in ICL.

The shift in ICL is necessary because kinocide's focus on the family is qualitatively different from the focus of existing prohibitions in this body of law. Specific international crimes, such as murder, focus on the individual. Categories of international crimes, such as genocide, focus on the broad collective (e.g., "national, ethnical, racial, or religious group").<sup>326</sup> Kinocide, in contrast, focuses on neither. Its key "unit of analysis" is located on the same continuum but is broader than the individual and substantially narrower than a collective—the *sine qua non* of kinocide is a family. Put differently, *kinocide* requires ICL to adopt a different and novel perspective. It looks beyond the harm inflicted on an individual and considers the broader context of the family. Yet it also remains on this intimate level; it does not go as far as looking at the harm inflicted on the much broader collective of which one is a member; rather, it focuses on the specific harm inflicted on the family to which one belongs.

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<sup>325</sup> For a pertinent discussion of the relevance of the "other inhumane acts" provision of crimes against humanity see Section VI.A.i.

<sup>326</sup> Convention on the Prevention and Punishment of the Crime of Genocide art. II, Dec. 9, 1948, 78 U.N.T.S. 277 [hereinafter Genocide Convention]. To be sure murder can be a part of the crime of *kinocide*, and *kinocide* can be part of Genocide genocide as more fully explained below in Section VI.A.iii on capturing kinocidal acts as a form of genocide.

## B. Toward a Legal Definition of Kinocide

### i. Key considerations for defining kinocide

The discussion above makes clear that the core of the crime of kinocide is the abuse and exploitation of families. The report does not intend to provide a thorough and comprehensive definition of the crime of kinocide; such a definition should be explored in subsequent academic and legal discussions.<sup>327</sup> Nevertheless, even at this point, drawing on the factual analysis of the abuse and exploitation of families committed by Hamas and its collaborators in Israel and by other perpetrators globally, and a broad range of pertinent international legal instruments,<sup>328</sup> this report can offer general considerations for a definition of the crime of kinocide and specify concrete forms of conduct through which this crime can be committed.

For example, similar to other international crimes, the definition of kinocide can contain a general “chapeau” provision delineating the pertinent contextual elements, such as the existence of a concerted attack, and that the attack be widespread or systematic.<sup>329</sup> It can also outline the specific aspects distinguishing kinocide from other international crimes, such as its focus on the family, whether through the destruction of the family, exploitation of familial bonds, or acts of violent conduct committed against families in front of or in the presence of another family member.<sup>330</sup>

Moreover, a definition of a family may be required, since, as mentioned earlier, the concept of “family” varies based on context, culture, religion, nationality, and more. For the purposes of kinocide, a definition that draws on existing, well-established international norms is warranted.<sup>331</sup> Accordingly, it would be advisable for such a definition to provide an illustrative (rather than restrictive) list of family and familial relationships. For example, that the term *family* can include a person’s descendants, siblings, intimate partners, and their families. To account for the diverse and evolving ways in which a familial relationship can be established (e.g., through adoption or forms of partnership other than marriage, and including LGBTQ+ intimate partnerships, whether or not recognized by domestic laws), the definition should also explicitly state that it is immaterial how such relationships were established and what their formal legal status is.<sup>332</sup>

Furthermore, defining what is meant by “in front of or in the presence of” a member of one’s family is necessary. Here as well, a broad definition would be appropriate to ensure comprehensive protection against varied forms of kinocide. For instance, this definition could specify that kinocide is committed “in front of” a person if they perceive the relevant conduct or its consequences not only visually but through other senses, such as hearing. It may also clarify that physical proximity to the

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327 See Section VIII.

328 See, e.g., the Genocide Convention; the Rome Statute of the International Criminal Court (1998) [hereinafter “Rome Statute”]; and the Draft articles on Prevention and Punishment of Crimes Against Humanity (2019) [hereinafter “Draft CAH Treaty”].

329 See, e.g., the Rome Statute Article 7 (“For the purpose of this Statute, ‘crime against humanity’ means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack”).

330 Compare, the Genocide Convention Article 2 (“In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:”).

331 See, e.g., Magdalena Sepulveda Carmona, “A Contemporary View of Family in International Human Rights Law and Implications for the Sustainable Development Goals” Discussion Paper No. 21 (December 2017), at 8-11, 16-18. See also *id.* at 17, citing: IACtHR, case of Atala Riffo and daughters v. Chile, Judgment of 24 February 2012, para 142; European Court of Human Rights, Schalk and Kopf v. Austria, Application No. 30141/04, Judgment of 24 June 2010, para. 91; Elsholz v. Germany, Application No. 25735/94, Judgment of 13 July 2000, para. 43; Keegan v. Ireland, Series A no. 290, 26 May 1994, para. 44; and Johnston and Others v. Ireland, Series A no. 112, 18 December 1986, para. 56.

332 See Carmona, *supra* note 331 at 16-18. Compare, UNHRC, “Report of the Working Group on the Issue of Discrimination Against Women in Law and in Practice,” UNGA, 29th Sess, UN Doc A/HRC/29/40 (2015) at para 28.



kinocidal act, or its consequences is not required; they can be perceived through recordings, social media, or other means of conveying information that was widely spread in ways that increased harm.

In addition to these general provisions and definitions, and in line with other international crimes,<sup>333</sup> the prohibition on kinocide can list specific forms of conduct through which the crime can be committed. These provisions may include the specific patterns committed by Hamas and its collaborators on October 7, such as intentional separation of family members, killing or injuring family members in front of each other, and taking families hostage, including children.<sup>334</sup> Additional provisions may include patterns or acts documented elsewhere, such as executing family members of regime opponents or disappearing dissidents' family members.<sup>335</sup> Other provisions may include acts such as murder, torture, and hostage-taking.

Although some specific forms of kinocidal conduct can and should be listed explicitly, the list should be nonexhaustive. Additionally, consistent with other international crimes, the prohibition on kinocide may include "other inhumane acts of a similar character"<sup>336</sup> against the family unit as part of the conduct through which kinocide can be committed.

## **ii. Proposed preliminary definition of kinocide**

To augment the examination of the key considerations above, and to anchor the discussion about kinocide's integration into ICL below, we propose the following as an outline for a preliminary definition: kinocide should mean any of the following acts deliberately committed with the knowledge that they will likely lead to the destruction of a family, familial relationships or the disintegration of family units. These acts are characterized by the exploitation of familial bonds to exacerbate suffering, or committed against family members in front of or in the presence of other members of their family. The acts must also be carried out as part of a widespread or systematic attack, where the perpetrator is aware of the context and implications of this overarching attack on families. These acts may encompass but are not limited to:

- i. Killing of family members
- ii. Inflicting serious bodily or mental harm on family members
- iii. Torturing family members
- iv. Committing acts of sexual violence, including rape, sexual slavery, enforced prostitution, forced pregnancy, or enforced sterilization against family members
- v. Separating family members by force or the threat of force
- vi. Hostage-taking
- vii. Broadcasting or disseminating any of the above acts or their effects on family members
- viii. Committing other inhumane acts of a similar nature that cause significant suffering or harm to family members

The above preliminary definition should serve as a starting point for further discussion and refinement by academics, legal experts, stakeholders, and others. It is an initial outline for a definition, which

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333 See, e.g., the Rome Statute, art. 7 and 8; Draft Crimes Against Humanity Treaty, Article 2.

334 See Section I.

335 See Section IV.

336 See, e.g., Rome Statute, art 7.1(k).

was developed in light of the conduct patterns observed during the Commission’s investigation process, and its review of global manifestations of violence against families.<sup>337</sup>

### iii. The mental element for kinocide

Determining the appropriate mental element required for committing kinocide merits a deeper discussion, which is beyond the scope of this report.<sup>338</sup> Such discussion must address multiple thorny questions of law.<sup>339</sup> One question is, what should be the mental element as to the objective elements of kinocide (e.g., killing members of a family)? For instance, should kinocide require that perpetrators intend to kill family members, or should it suffice that perpetrators showed knowledge that their conduct would lead to such a result?<sup>340</sup> Another more complex question concerns the additional mental elements pertaining to the chapeau elements of kinocide.<sup>341</sup> Should the mens rea

337 To advance a fruitful public discourse among researchers, jurists and academics, the Commission’s research team is also in the advance stages of developing a forthcoming law review article that will elaborate on the pivotal legal issues involving the definition and implementation of the crime of kinocide.

338 See Section VIII.

339 See generally, Cassese et al, *CASSESE’S INT’L CRIMINAL LAW*, 37–58 (2013).

340 For explanation on the nature of intent in ICL and its connection to common law recklessness see *id.* at, 43–49 (2013).

341 For the multiple dimensions of mens rea in international crimes see *id.* at, 37–38 (2013).



Photo by the US Embassy (Kfar Aza, Jun 1, 2024)

be that of a special intent (*dolus specialis*) along the lines of genocide, which specifically requires that perpetrators have the “intent to destroy, in whole or in part, a national, ethnical, racial, or religious group as such”?<sup>342</sup> Should it, alternatively, be knowledge, similar to crimes against humanity that require the underlying acts to be committed by the perpetrators “as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack”?<sup>343</sup>

This report does not purport to provide definitive answers to these questions. However, it appears that setting the *mens rea* bar for kinocide at the lower end of the mental elements’ spectrum may be inadvisable. This may result in casting the net too widely and prosecuting persons whose state of mind is simply incommensurate with the special evil the crime of kinocide aims to capture (e.g., mere recklessness regarding the underlying conduct). At the same time, setting the *mens rea* bar at the higher end of the mental elements spectrum may be equally inadvisable. For instance, requiring that perpetrators have the special intent to destroy members of a family as such may result in severely limiting the reach of the crime. It could provide impunity from the prosecution for kinocide to persons who killed family members in front of each other or separated them from each other while being fully aware that their conduct is part of a widespread and systematic attack.

A potentially more adequate starting point for the discussion on the mental element required for the crime of kinocide is knowledge. This refers to the perpetrator’s knowledge that a circumstance exists or consequence will occur in the ordinary course of events. This understanding is consistent with Article 30 of the Rome Statute.<sup>344</sup>

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342 Rome Statute, Article art. 6. For a brief discussion of the notion of *dolus specialis* see CASSESE, *supra* note 338, at 44–45.

343 Rome Statute, art. 7. See also CASSESE, *supra* note 338, at, 49–52, 99–100 (2013).

344 Rome Statute, art. 30.



## VI. Paths for Recognition and Codification of Kinocide under International Criminal Law

With these considerations in mind, we can now turn to discussing the specific mechanisms for integrating kinocide into international criminal law (ICL). We start with the integration of kinocide through interpretive or more formal means into *existing* legal frameworks as (1) a crime against humanity, (2) a war crime, (3) a form of genocide, and (4) a form of torture.

### A. Utilizing Existing International Law Instruments

ICL contains several well-established prohibitions that are pertinent to *kinocide*. The integration of kinocide can be achieved by interpreting existing provisions to include the weaponization of families, with assistance from the jurisprudence of international tribunals and the writings of international academics and jurists. Such interpretative means require no changes in the text of the pertinent provisions. In addition, kinocide could be *formally* incorporated into these categories as a separate concept.

#### i. Capturing kinocidal conduct as a crime against humanity

Crimes against humanity, according to the Rome Statute, are certain acts committed as part of a “widespread or systematic attack directed against any civilian population, with knowledge of the attack.”<sup>345</sup> These acts include murder, extermination, torture, rape, and so on.<sup>346</sup> They also include the residual prohibition on committing “other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.”<sup>347</sup> This latter prohibition appears to be the most immediate site for the integration of kinocide into the category of crimes against humanity. For instance, it seems clear that the abuse of families described in this report as kinocide, including the patterns of conduct of Hamas and its collaborators,<sup>348</sup> can amount to inhumane acts and cause great suffering. Moreover, there is precedent for using such provisions under ICL to charge what we now recognize as kinocidal conduct.<sup>349</sup>

As for the formal incorporation of kinocide as a crime against humanity, it is also worth mentioning that the Draft Crimes Against Humanity Treaty is being considered for adoption.<sup>350</sup> The substantive provisions of the draft treaty closely follow the Rome Statute format, listing acts that can constitute crimes against humanity. Kinocide should be formally incorporated into this category, explicitly including, for example, the abuse and exploitation of familial bonds, intentional separation of family members, abducting, killing, injuring, or other inhumane acts conducted against family members in front of each other, and holding children hostage without their parents into the listed acts, in both the Draft Crimes Against Humanity Treaty and Rome Statute.

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345 Rome Statute, art 7.1.

346 Rome Statute, art 7.1.

347 Rome Statute, art 7.1(k).

348 See, e.g., Section I, Section IV.

349 See, *Kupreškić*, *supra* note 298, 562–66 (Jan. 14, 2000) (discussing art. 5(i) of the statute of the ICTY, and its relationship to art. 7 of the Rome Statute). See also Section IV (presenting the charges in *Kupreškić*).

350 For information about the process see, e.g., the Analytical Guide to the Work of the International Law Commission, [https://legal.un.org/ilc/guide/7\\_7.shtml](https://legal.un.org/ilc/guide/7_7.shtml); Leila Nadya Sadat Draft Treaty on Crimes Against Humanity Draws More Engagement from States (Just Security, May 22, 2024) <https://www.justsecurity.org/95850/crimes-against-humanity-draft-treaty-states-engagement/>



## ii. Capturing kinocidal conduct as a war crime

War crimes, according to the Rome Statute, are acts against persons or property protected under the Geneva Conventions that constitute grave breaches of the conventions or other serious violations of IHL.<sup>351</sup> They include “willful killing,” “torture, or inhumane treatment,” hostage taking, “intentionally directing attacks against the civilian population as such,” or launching attacks violating the principle of proportionality under IHL.<sup>352</sup> The prohibition on “inhumane treatment” can serve as a suitable vehicle to integrate *kinocide* into the category of war crimes under the Rome Statute (for similar reasons to those applied to crimes against humanity).

Integration can also be pursued through the central treaties of IHL, namely, the Geneva Conventions themselves. Article 3, common to all four 1949 Geneva Conventions contains pertinent provisions.<sup>353</sup> These include the obligation to treat “persons taking no active part in the hostilities... humanely,”<sup>354</sup> as well as prohibitions on “cruel treatment”<sup>355</sup> and “outrages upon personal dignity, in particular humiliating and degrading treatment.”<sup>356</sup> Here, as with crimes against humanity, it appears that the patterns of conduct of Hamas and its collaborators constituted inhumane treatment and outrages upon personal dignity, including humiliating and degrading treatment, as well as cruel treatment. Moreover, there is precedent for using such provisions under ICL to charge what we describe as kinocidal conduct.<sup>357</sup>

One key limitation and one benefit to integrating kinocide via Common Article 3 exist. The limitation relates to this article’s applicability to certain kinds of conflicts. There are two main kinds of armed conflicts under IHL: conflicts of an international character,<sup>358</sup> in which all the parties are States, and conflicts “not of an international character,”<sup>359</sup> in which at least one party is not a State. Common Article 3 applies to the latter. These are the kinds of conflicts typically involving terrorist organizations, and in which kinocide may be more prevalent and the prohibition on kinocide more needed. Yet, since *kinocide* can be, and reportedly has been,<sup>360</sup> committed in conflicts of an international character, this may also be a limitation. The benefit of integrating kinocide through Common Art. 3 of the Geneva Conventions relates to their broad scope of application. Unlike other pertinent international treaties, particularly the Rome Statute, the Geneva Conventions are universally ratified. Thus, the successful integration of *kinocide* into the law via this path will result in its incorporation worldwide.

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351 Rome Statute, art. 8.

352 Rome Statute, art. 8.

353 Common Article art. 3.1 of the Geneva Conventions. See also, Rome Statute, art. 8(2)(c).

354 Common Article art. 3(1) of the Geneva Conventions.

355 *Id.* at 3(1)(a).

356 *Id.* at 3(1)(c).

357 Recall also that in *Kupreškić* the ICTY Statute’s “cruel treatment” provision (based on Common Art. 3) was used to charge the accused with violation of IHL for killing a person’s family before his eyes. See Section IV.

358 Common Article art. 2 of the Geneva Conventions.

359 Common Article art. 3 of the Geneva Conventions.

360 Amnesty International, Russia: Authorities targeting children in their crusade against anti-war dissent (May 2024), <https://www.amnesty.org/en/latest/news/2024/05/russia-authorities-targeting-children-in-their-crusade-against-anti-war-dissent/>;

As for the formal incorporation of kinocide as a war crime, one path is including the abuse of families and exploitation of familial bonds explicitly into the list of acts proscribed as war crimes under the Rome Statute.<sup>361</sup> Another path is including such a prohibition in the Geneva Conventions themselves, perhaps through the adoption of an Additional Protocol to these conventions that would focus on kinocide.<sup>362</sup>

### iii. Capturing kinocidal conduct as a form of genocide

Genocide, according to the Genocide Convention and the Rome Statute, is acts “committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group as such.”<sup>363</sup> These acts toward the group consist of killing or causing serious bodily or mental harm to its members, inflicting “conditions of life calculated to bring about” its partial or total destruction, intentionally preventing births within it, and “forcibly transferring” its children to another group.<sup>364</sup> By recognizing the deliberate exploitation of familial bonds as one of the enumerated possible acts of genocide, kinocide can serve as a mode of perpetration of genocide.

The integration of *kinocide* into the category of genocide is more complex than the other categories, as it depends on a combination of specifically prohibited genocidal acts and the conceptual connection between the two categories. Genocide and *kinocide* are similar in that both look beyond the harm inflicted on an individual and require an assault upon a group.<sup>365</sup> *Kinocide* focuses on the most basic level of social group, the family. Genocide focuses on social groups of a higher level.

Yet, these levels of social groups are not orthogonal; they are closely connected. On the one hand, higher-level groups protected by the prohibition on genocide commonly consist of (also) families. Note, for instance, that some specifically prohibited genocidal acts, such as preventing births and forcibly transferring children, are likely to have an effect not only on the group (and individual) level but also on the family. The connection exists in the other direction as well. *Kinocide* committed through such prohibited acts could result in genocide. Recognizing these connections also strengthens what common sense suggests: that the targeted abuse and exploitation of families (*kinocide*) belonging to a certain national or ethnic group can be an especially effective way to bring about the destruction of that group in whole or in part.

As the nuanced discussion above suggests, the integration of *kinocide* into the category of genocide through existing law is clearly possible, albeit complex. This complexity, at the same time highlights the need for a straightforward, formal incorporation. Such incorporation can be achieved by including the abuse of families and exploitation of familial bonds explicitly into acts listed in the Genocide Convention and the Rome Statute as constituting genocide.<sup>366</sup>

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361 See Rome Statute, art. 6.

362 Compare, Protocol Additional to the Geneva Conventions of Aug. 12, 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III), Dec. 8, 2005. (focusing on the adoption of a neutral distinctive emblem, alongside the red cross and red crescent).

363 Genocide Convention art. 2. Rome Statute, art. 6.

364 Rome Statute, art. 6.

365 *Id.*

366 Genocide Convention art. 2. Rome Statute, art. 6.

#### iv. Capturing kinocidal conduct as torture

Torture, along with other forms of cruel, inhuman, or degrading treatment or punishment (CID), is prohibited under numerous international frameworks and instruments. For instance, as discussed earlier, both torture and CID can constitute war crimes and crimes against humanity. They are also prohibited by the Geneva Conventions.<sup>367</sup> Torture and CID are also prohibited by a special international treaty dedicated to the subject—the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).<sup>368</sup>

In broad brushstrokes, CAT defines torture as the intentional infliction of “severe pain or suffering,”<sup>369</sup> which can be physical or mental, by or at the direction of a public official for specific purposes.<sup>370</sup> Such purposes include “obtaining [information] from . . . punishing . . . intimidating or coercing [a person],”<sup>371</sup> or, notably, *another* person, as well as “any reason based on discrimination of any kind.”<sup>372</sup> CAT also imposes an obligation on States to prevent “*other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture*”<sup>373</sup> as defined above.

The prohibitions on torture and CID under CAT, as well as war crimes and crimes against humanity frameworks, are particularly suitable vehicles for incorporating kinocide into ICL. Indeed, these specific prohibitions may most accurately capture certain essential aspects of kinocide. Conceptually, kinocidal acts such as the separation of children or selective killings of family members cause severe pain and suffering to the remaining family members that colloquially can be described as torture.<sup>374</sup> Moreover, legally, they can amount to torture or CID if other elements of that crime, as defined by CAT, for instance, are met (e.g., if they are committed for reasons based on discrimination). Furthermore, ICL caselaw addresses such kinocidal acts such as torture or CID,<sup>375</sup> and some legal scholars further maintain that even certain *threats* to harm one’s family members can amount to torture.<sup>376</sup>

It is clear, therefore, that there is a considerable overlap between torture and kinocide. The existence of an overlap between torture and another distinct crime is not unique to kinocide, however. For instance, rape, itself an international crime, can also constitute torture, as recognized by ICL

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<sup>367</sup> Geneva Convention Relative to the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Aug. 12, 1949, 6 U.S.T. 3114, 75 U.N.T.S. 31, art. 12; Geneva Convention Relative for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, Aug. 12, 1949, 6 U.S.T. 3217, 75 U.N.T.S. 85., art. 12; Geneva Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135, art. 17, 87, 89; Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287, art. 32; Common Article 3 of the Geneva Conventions. Torture and CID also appear on the pertinent lists of prohibited acts in the Rome Statute, and in the Draft Crimes Against Humanity Treaty. See e.g., Rome Statute art. 7.1(f), 7.1(k); 8(2)(a)(ii), 8(2)(b)(xxi), 8(2)(c)(i), 8(2)(c)(ii); Draft Crimes Against Humanity Treaty art. 2.1(f), 2.1(k)). For a brief discussion of differences between torture as a crime against humanity and war crime see *Ongwen Trial Judgment*, *supra* note 320, ¶¶ 2702–07.

<sup>368</sup> Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (1987) (hereinafter CAT). For additional international instruments proscribing torture, see, e.g., the European Convention on Human Rights (1970) art. 3; International Covenant on Civil and Political Rights (1976) art. 7.

<sup>369</sup> CAT, *supra* note 367, art. 1. See generally, Luban et al., INT’L TRANSNAT’L CRIM. L., 1035–44 (2024).

<sup>370</sup> CAT, *supra* note 367, art. 1.

<sup>371</sup> *Id.*

<sup>372</sup> *Id.*

<sup>373</sup> CAT, *supra* note 367, art. 16 (emphasis added).

<sup>374</sup> See, e.g., *Ongwen Reparations Order*, *supra* note 49, ¶ 261 (“[a witness] recalled that the morning after the attack people went back and collected the bodies of their relatives and then she saw the bodies of her sons. She recounted: The pain is so intense seeing one of your own children having been killed . . . All the corpses were piled together, and people came to collect me, and I went to see the bodies of my children. I remember the most painful thing was seeing the corpses all piled up together.”); *Id.* ¶ 263 (an expert witness explained that “[f]amilies whose children were abducted were left in a situation of ambiguous loss since they had little way of knowing whether their children were still alive. Parents and family members worry constantly and experience profound agony, with little hope that they could do anything to find or help their abducted children.”).

<sup>375</sup> See, e.g., *Ongwen Trial Judgment*, *supra* note 320, ¶¶ 2937–42; *Kupreškić*, *supra* note 298, ¶ 35.

<sup>376</sup> Luban et al., INT’L TRANSNAT’L CRIM. L., 1043 (2024).

caselaw.<sup>377</sup> Yet the substantive overlap between kinocide and torture is advantageous, as it can ease the integration-through-interpretation of the crime of kinocide into ICL.

What makes torture and CID unique is that they must be committed by or at the direction of a public official for specific purposes. Therefore, while this framework may capture kinocidal conduct in certain contexts, there remain protection gaps. For instance, there may be difficulty in application of this framework with regard to Hamas's conduct on October 7 given that it is questionable whether Hamas or some of its collaborators are public officials.<sup>378</sup>

## B. Creating New International Law Instruments

To complement the recognition of the crime of kinocide through existing law, we also highlight the possibility of pursuing recognition through the Draft Crimes Against Humanity Treaty or the more ambitious creation of a kinocide convention. The rationale for pursuing these paths is that the formal, more comprehensive integration of the crime of kinocide into ICL offers several significant benefits compared to its recognition through existing law.

A key advantage of formally recognizing kinocide is that it would codify the crime in writing, enhancing clarity and consistency in its application. This formal codification would also serve as an authoritative recognition of the systematic abuse of families and exploitation of familial bonds, as well as a reference for integrating the crime of kinocide into existing legal frameworks. Further, a dedicated kinocide convention could provide a comprehensive definition of this unique crime, informed by the specific patterns of conduct and other considerations outlined in this report that are pertinent to kinocide.

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<sup>377</sup> See, e.g., *Prosecutor v. Jean-Paul Akayesu, (Judgement) ICTR-96-4-T*, Int'l Crim. Trib. for Rwanda (ICTR) Sept. 2, 1998 <https://ucr.irmct.org/LegalRef/CMSDocStore/Public/English/Judgement/NotIndexable/ICTR-96-04/MS15217R0000619817.PDF> (accessed Aug. 31, 2024) ¶ 597; *Prosecutor v. Kunarac, (Judgement) IT-96-23 & IT-96-23/1-A*, Int'l Crim. Trib. for the Former Yugoslavia (ICTY) June 12, 2002, <https://www.legal-tools.org/doc/029a09/> [accessed Aug. 31, 2024] ¶ 151.

<sup>378</sup> Kali Robinson, "What Is Hamas" (Oct. 31, 2023), Council on Foreign Relations, <https://www.cfr.org/backgrounder/what-hamas>. Hamas has in fact been listed by Canada as a terrorist entity since Nov. 27, 2002: "Currently listed entities" (accessed November 26, 2023), Public Safety Canada, <https://www.publicsafety.gc.ca/cnt/ntnl-scrt/cntr-trrrsm/lstd-ntts/crrnt-lstd-ntts-en.aspx>; by the US since October 8, 1997: "Foreign Terrorist Organizations" (accessed Nov. 26, 2023), US Department of State, <https://www.state.gov/foreign-terrorist-organizations/>; and by the UK since March 2001: Home Office, "Proscribed Terrorist Groups or Organizations" (Apr. 26, 2024) <https://www.gov.uk/government/publications/proscribed-terror-groups-or-organisations--2/proscribed-terrorist-groups-or-organisations-accessible-version#:~:text=Hamas%20has%20used%20indiscriminate%20rocket,were%20killed%20as%20a%20result>.





Photo by the Civil Commission (Nir Oz, Jun 19, 2024)

## VII. Conclusions

This report reaches the following conclusions:

- There is overwhelming evidence confirming that the actions of Hamas and its collaborators during the October 7, 2023 attack were not only extensive but also methodically executed, specifically targeting families within residential communities. This pattern of violence reveals a coordinated and organized effort to maximize the harm to families, and create a climate of fear and destruction in these communities.
- Based on clear and convincing evidence, the report identifies six patterns, in multiple locations, confirming the widespread and systematic nature of the October 7 attack against families: These patterns are:
  - a. Committing acts of violence, including killing and severe injury, in the presence of other family members.
  - b. Eliminating entire family units.
  - c. Taking families hostage, including children.
  - d. Using digital and social media to broadcast abuses directly to the victims' families and to the general public, including commandeering victims' own social media accounts.
  - e. Intentionally separating families.
  - f. Burning and vandalizing family homes, including while families were hiding inside, killing, injuring and leaving lasting scars on individuals and communities.
- There is strong empirical evidence to support the conclusion that, due to the central and instrumental role of the family unit in society and in the life of the individual, the harm resulting from such targeted violation of the family unit is likely to be distinctly destructive, expansive, and protracted, rippling through all life facets of the individual, the family, the community, and society as a whole.

In light of these conclusions, we maintain that Hamas's conduct on October 7, 2023 may constitute several violations of international law and should constitute a new form of international crime, coined in this report as *kinocide*. This terminology reflects the unique harm and serious implications of the conduct observed, emphasizing the targeting of families and exploitation of familial bonds. These conclusions also underscore the need for further consideration of the response to kinocide within domestic and international frameworks.





Photo by USAID (Be'eri Feb 28, 2024)

## VIII. Recommendations

### To the international community:

- Establish an independent expert panel to precisely define the crime of kinocide. This panel should also issue guidance and best practices to international law practitioners on how the targeted weaponization of families may be implemented through existing international criminal law.
- UN treaty bodies should issue general comments or recommendations that emphasize the serious nature of the crime of kinocide, urge its adoption into domestic laws, and call for its diligent investigation and prosecution.
- Recognize, integrate, and codify the crime of kinocide as a new international crime, including:
  - i. Take steps to integrate the crime of kinocide through the interpretation of existing ICL instruments, with particular emphasis on crimes against humanity, war crimes, genocide, and torture.
  - ii. Take steps to formally incorporate the crime of kinocide into existing ICL instruments. These steps can include, for example, amending the Rome Statute to incorporate *kinocide* as a new international crime falling within the ICC jurisdiction, and amending ICC's Elements of Crimes and Rules of Procedure and Evidence accordingly.
  - iii. Take steps to assess the possibility of incorporating kinocide into the Draft Crimes Against Humanity Treaty or pursuing the creation of new international convention dedicated to *kinocide*.
- Establish a dedicated task force with the critical role of preventing instances of kinocide, and ensuring accountability for those responsible for such acts.
- Establish an international fund to support and help victims of kinocide.

### To national governments:

- Recognize and codify the crime of kinocide in domestic jurisdictions, ensuring that *kinocide*, incitement to kinocide, or complicity to kinocide are punishable acts.

### To nongovernmental organizations:

- Monitor, document, and report incidents of kinocide.
- Proactively analyze the collected data to help identifying patterns and trends that may provide early indications of kinocide, and facilitate the implementation of timely interventions and prevention strategies.



## **Annex 1: Call for Information and Testimonies**

**The Civil Commission on October 7th Crimes by Hamas Against Women and Children** was founded in the aftermath of the Hamas attacks in Israel on Oct. 7, 2023, to give a voice to the victims and survivors and to advocate for their rights, most urgently for the rights of the hostages still held in Gaza, by documenting, collecting, researching, distributing, and preserving an ongoing historical record of the crimes committed by Hamas during and after Oct. 7. To this end, the Commission has established the Commission's Archive.

**The Commission's focus is on the entire spectrum of crimes committed by Hamas against women, children and families, including sexual and gender-based crimes, abuse committed against families, and the ongoing war crimes still being perpetrated against the hostages held in Gaza. The Commission invites individuals, groups, and organizations to submit relevant information and materials or share their testimonies.**

In particular, we are interested to hear directly from survivors, their relatives, first responders, families, friends, health care providers and paramedics, and any witnesses who can share information. The information will be archived. It should be noted that not all information sent to the Commission will necessarily be reflected in the Commission's reports. The Commission attaches the utmost importance to the protection of sources, notably concerning the respect for confidentiality, informed consent and the "do no harm" principle (not to jeopardize the life, safety, freedom, or well-being of victims, witnesses, or other cooperating persons). Furthermore, the Commission takes all possible measures to ensure protection of information.

To ensure the confidentiality of submitted information and testimonies, please use the Commission's designated email address: [info@dvora-institute.org](mailto:info@dvora-institute.org)

We encourage you to share your testimony or arrange a meeting by reaching out to us. For any questions, including alternative submission methods, please don't hesitate to contact us.

Your contributions—through sharing information, testimonies, and personal stories—are deeply valued and greatly appreciated.





THE CIVIL COMMISSION ON  
OCT 7 TH CRIMES BY HAMAS  
AGAINST WOMEN AND CHILDREN



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