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**Detailed findings on attacks carried out on and after 7
October 2023 in Israel***

**Independent International Commission of Inquiry on the Occupied
Palestinian Territory, including East Jerusalem, and Israel**

* Information complementary to that contained in the official report (A/HRC/56/26), submitted to the Human Rights Council pursuant to resolution S-30/1.



I. Introduction

1. The Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel (“the Commission”), investigated attacks carried out on 7 October 2023 on several civilian targets in Israel, an attack on one military base, and rocket and mortar attacks. The Commission also investigated Israeli attacks on the Gaza strip up to 31 December 2023, with a focus on the siege, attacks on evacuating civilians and attacks on residential buildings and refugee camps. This conference room paper provides detailed findings of the Commission’s investigation in relation to attacks carried out on 7 October 2023 in Israel. The Commission examines acts committed by Israel towards Palestinians in the Occupied Palestinian Territory in its conference room paper A/HRC/56/CRP.4. This conference room paper also includes some incidents that took place in Gaza that are linked to the 7 October attack.

2. The Commission sent four requests for information to Israel and one request to the State of Palestine. Israel did not respond. The State of Palestine provided the Commission with information. The Commission submitted six requests for access to Israel and the Occupied Palestinian Territory. Israel persists in not responding to the Commission’s requests for access to its territory and in preventing access to the Occupied Palestinian Territory. The Commission considers that Israel is obstructing its investigations into events on and since 7 October 2023, both in Israel and in the Occupied Palestinian Territory. The State of Palestine has indicated that it would welcome a visit by the Commission.

3. The Commission undertook a mission to the Republic of Türkiye and the Arab Republic of Egypt from 28 February to 8 March 2024 to meet with Palestinians evacuated from the Gaza Strip on medical grounds and their relatives. In this regard, the Commission thanks the Governments of both countries for giving it access to their territories and the support provided during its mission. The Commission also thanks other States and organizations that have supported the implementation of its mandate since its last report.

II. Methodology

4. The Commission began gathering information on the morning of October 7, as events unfolded on the ground, and applied the same methodology and standard of proof previously adopted for its investigations. This methodology is consistent with OHCHR recognized guidelines and practices for investigating human rights violations and international crimes by international mechanisms that do not have direct access to the locations where the crimes are committed.

5. The Commission has collected and preserved thousands of open-source items which were carefully examined and assessed. The Commission also received more than 350 documents following its call issued on 20 October 2023, through which it invited States and individuals, groups and organizations to submit information concerning possible crimes committed by any armed actors since 7 October 2023.¹ The Commission also sent requests for information to various organisations and entities. It thanks those who provided information.

6. The Commission conducted remote interviews with victims and witnesses and consulted other sources of information inside Israel, in the Occupied Palestinian Territory and in several other countries and was able to meet with various stakeholders to gather the necessary information and data for its investigations. During its mission to Türkiye and Egypt, the Commission was able to gather valuable first-hand accounts, including from children, of acts committed in Gaza since 7

¹ <https://www.ohchr.org/en/hr-bodies/hrc/co-israel/call-submissions-international-crimes-7-october-2023>

October 2023. It met with more than 70 victims and witnesses, more than two thirds of whom were women.

7. In selecting incidents for in-depth investigation and analysis in this report, the Commission identified emblematic incidents that took place on or after 7 October 2023 that are representative of a wider trend. Information that met the criteria of reliability and authenticity was included and analysed under the standard of proof of “reasonable grounds to conclude”. For protection concerns, the Commission has only included the names of deceased victims and witnesses in this report.

Limitations

8. The Commission faced several challenges in its investigation into acts committed in Israel on 7 October. Israeli officials have publicly announced on several occasions Israel’s refusal to cooperate with the Commission’s investigation into acts committed by Hamas Izz ad-Din al-Qassam Brigades² and other Palestinian armed groups against Israelis.³

9. Israeli officials not only refused to cooperate with the Commission’s investigation but also reportedly barred medical professionals and others from being in contact with the Commission after it approached medical professionals in Israel in December 2023.⁴ The Commission was not able to visit the sites of the violations as the Israeli Government has prevented it accessing Israel.

Digital investigations

10. In addition to evidence obtained by the Commission directly, including interviews and submissions, the report draws on publicly available sources of information, including, but not limited to, reports by international and national NGOs, media articles, social media, photographic and video material, eyewitness testimony and data released by the authorities of Israel and Palestine as well as Palestinian non-State armed groups.⁵ Furthermore, on a number of occasions, the analysis of the available photographic and video material was complemented by an independent evaluation by a professional forensic pathologist.

11. The Commission searched for, preserved and analysed open-source material in compliance with international standards for digital online investigations related to alleged violations of international humanitarian law and international human rights law. Each piece of information was forensically collected in accordance with international standards on the preservation of web-based content and in accordance with rules of admissibility of digital evidence, continuously ensuring its integrity, authenticity and reliability.

12. The collected open-source material was verified primarily through comprehensive cross-referencing with a broad and varied collection of reputable sources. Whenever needed, verification of available photographic and video material was complemented by advanced forensic examination, including visual media authentication, alteration detection, metadata extraction and facial recognition analysis.

² Officially known as “Izz ad-Din al-Qassam Brigades”, <https://en.alqassam.ps/>. The Commission uses the term “Hamas military wing” or “Hamas militants” in this report.

³ <https://x.com/giladerdan1/status/1730284375105819003?s=46&t=-c1Omps22oOQ4HkH3ayKDg>.

⁴ See for example <https://www.timesofisrael.com/government-forbids-doctors-from-speaking-to-un-group-investigating-oct-7-atrocities/?s=08>

⁵ The Commission uses the term “Palestinian armed groups” to refer to members of the military wings of Hamas, Palestinian Islamic Jihad and other smaller Gaza based armed groups who are not under the control of the Palestinian Authority, that it found had participated in the attacks. See section P below for more on the identity of perpetrators. Where the Commission was certain that a specific attack was carried out by perpetrators belonging to a specific group, the name of the group is noted in the text. The Commission also uses the term “attackers”, “militants” and “perpetrators”, as short form in some instances.

13. In addition, geolocation and chrono-location analysis of available visual media was carried out to extract key spatial and temporal data necessary for reconstructing events, validating the gathered imagery and establishing circumstances of its capture. As such, the geolocation of the collected photographic and video material was performed by cross-referencing its landmarks and topographical features with satellite imagery, including those retrieved from Google Earth. The chrono-location of the examined visual media was carried out by analysing shadows, weather conditions and other time-sensitive indicators in the imagery to establish the timing of the investigated events.

Sexual and Gender-Based Violence (SGBV)

14. The Commission's findings on sexual and gender-based violence are based on forensic analysis of verified digital content as well as witness accounts obtained by the Commission and medical forensic reports. In relation to the standard of proof applied by the Commission to cases of sexual violence, the Commission has found the standard of 'reasonable grounds to conclude' to have been met when information has been corroborated by one or several witnesses interviewed by the Commission, and supported by digital evidence that demonstrates similar patterns and descriptions to those identified by witnesses. Information that does not meet this level of corroboration has been excluded from the Commission's findings. Testimonies from witnesses who have not been interviewed by the Commission, including those in public media reports, have only been considered in exceptional circumstances and for analytical purposes.

15. The Commission has considered several indicators of sexual violence when making its findings, such as the victim being partially or fully undressed, absence of underwear and exposure of the genitals, in combination with the restraining of feet, wrists and hands, positioning of the corpse, isolation of the victim, and/or signs of violence or force on the victim's body and/or genital area.

16. On 1 December 2023, the Commission issued a call for submissions on gender-based crimes, with an emphasis on murder and hostage-taking, rape and other forms of sexual violence, committed by any armed actors on and since 7 October 2023.⁶ The Commission also sent a request for information to Israel in March 2024, inquiring about additional information in relation to rape and other forms of sexual violence, including evidence of any instructions provided to the perpetrators directly responsible for the attack on 7 October 2023 to carry out such acts, or information on specific cases of gender-based crimes on 7 October 2023, including cases of rape and other forms of sexual violence. It has not received a response.

17. Investigating sexual and gender-based violence is always difficult but the Commission has faced additional challenges in its investigation of sexual and gender-based violence on 7 October, including active attempts by Israeli authorities to obstruct the Commission's access to information related to sexual violence. Such measures include instructing medical professionals not to cooperate with the Commission.

18. The Commission notes the absence of forensic evidence of sexual crimes committed on 7 October. Witnesses who spoke to the Commission explained that Israeli authorities focused on identifying and burying the large number of bodies in the period following the attack, leading to evidence not being collected and preserved for accountability purposes. The Commission also faced a challenge in determining the crime committed when the circumstances surrounding the death of the victim were unknown.

19. The Commission has not met any survivors of sexual violence committed on 7 October, despite its attempts to do so. The Commission has documented information that some survivors are receiving treatment but are not ready to speak about their experience with external parties. The Commission notes that survivors of sexual violence are frequently hesitant to come forward due to the risk of stigma and

⁶ <https://www.ohchr.org/en/hr-bodies/hrc/co-israel/call-submissions-gender-based-crimes-7-October-2023>

re-traumatization for themselves and their family members. The Commission considers that the inflammatory language, misinformation and disbelief surrounding the issue of sexual violence in the context of the attack of 7 October risk exacerbating these challenges and further silencing victims. The exploitation of sexual violence in conflict for political expediency risks removing attention from the experience and needs of the survivors, as well as fuelling long-standing animosity and dehumanization.

III. Factual findings: acts committed by the Hamas Izz ad-Din al-Qassam Brigades and other Palestinian armed groups on 7 October 2023 in Israel⁷

A. Introduction

20. On 7 October 2023, members of Hamas armed wing, called the Izz ad-Din al-Qassam Brigades, and other Palestinian armed groups, accompanied by Palestinian civilians,⁸ numbering at least 1,000 persons,⁹ carried out a coordinated, complex attack on Israeli civilian communities, civilian locations and military bases in southern Israel, near the border with Gaza. Attackers entered Israel by land, sea and air in conjunction with the launch of a large-scale rocket and mortar attack towards cities, towns and villages and military bases in southern and central Israel.

21. According to Israeli sources, more than 1,200 persons were killed directly by members of the various Palestinian armed groups and others and by rockets and mortars launched from the Gaza Strip. Of these, at least 809 were civilians, including at least 280 women¹⁰, 68 were foreign nationals and 314 were Israeli military personnel. Among those killed were 40 children (including at least 23 boys and 15 girls confirmed by the Commission) and 25 persons aged 80 and over. In addition, 14,970 people were injured and transferred to hospitals for treatment. At least 252 people were abducted to Gaza as hostages, including 90 women, 36 children, older people and members of Israeli Security Forces. About 20 of these abductees were members of Israeli Security Forces, many of whom have since been killed in captivity. As of 21 May 2024, 128 hostages had been released or rescued, including bodies retrieved of killed hostages, and 128 remained in captivity, alive or dead.¹¹

22. According to Israeli sources, at 06:30 on Saturday 7 October, Palestinian armed groups launched a heavy barrage of rockets and mortar fire at Israel, targeting in particular southern villages, towns and cities. At 10:26 the Israeli Army spokesperson announced that 2,200 rockets and mortars had been fired at Israel.¹² According to media

⁷ All information in this report contained in its factual findings is based on confidential information on file, unless specifically annotated.

⁸ The Commission uses the term “Palestinian civilians” to refer to people from Gaza dressed in civilian clothing who it found had taken part in the attack. In some cases, the Commission could not determine whether members of this group were part of the militant wing of Hamas or any other Palestinian non-State armed group, or whether they were civilians directly participating in the hostilities. . See more in section P below.

⁹ https://www.gov.il/BlobFolder/news/swords-of-iron-war-in-the-south-7-oct-2023/en/English_Swords_of_Iron_Hamas%20Invasion%20-%20Full%20Map%20-%20v5.pdf .

¹⁰ Israeli sources did not include disaggregated figures for the number of civilians killed. The Commission based this figure on a manual count through the website of the Israeli National Insurance, see <https://laad.btl.gov.il/Web/He/TerrorVictims/Default.aspx?lastName=&firstName=&fatherName=&motherName=&place=&year=&month=&day=&yearHeb=&monthHeb=&dayHeb=®ion=&period=32%22>.

¹¹ <https://www.gov.il/en/pages/swords-of-iron-war-in-the-south-7-oct-2023>. Last accessed on 24 May, 2024. This number includes four Israeli hostages held captive by Hamas since 2014.

¹² <https://www.idf.il/%D7%90%D7%AA%D7%A8%D7%99-%D7%99%D7%97%D7%99%D7%93%D7%95%D7%AA/%D7%99%D7%95%D7%9E%D7%9F->

reports, projectiles were also fired at military bases located close to the border housing 'lookout posts', with the aim of blinding Israeli forces to the approaching attack and impeding their ability to coordinate a counter-strike. At the same time, according to reports, Palestinian armed groups launched armed drones to neutralize the surveillance systems along the border. Shortly after 06:30, under the cover of rocket fire, Hamas armed wing and other Palestinian militants breached the fence between the Gaza Strip and Israel through use of explosives, in at least 29 different locations. Bulldozers were used in some places to widen the gaps in the fence to allow the passage of vehicles.

23. Hamas armed wing and other Palestinian armed groups, as well as armed and unarmed Palestinian civilians, continued entering through the breaches in the fence throughout the morning. Other militants entered Israeli airspace using motorized hang-gliders and entered Israel by sea, landing at Zikim beach.

24. Large groups of attackers targeted specific towns and villages, while others attacked military bases. Hamas armed wing and other Palestinian militants laid ambushes on key roads leading from areas of Israel near the Gaza border (known as 'the Gaza Envelope' or in Hebrew Otef Aza)¹³, and targeted arriving Israeli Security Forces. In the kibbutzim of Zikim, Kerem Shalom, Nir Am, Sa'ad and Alumim, the local rapid response security teams largely pushed back the armed Palestinian attackers. While sustaining some losses, these kibbutzim managed to hold off a full occupation by militants. Other kibbutzim, however, were effectively occupied by the attackers for the majority of the day before the arrival of Israeli security forces. On the roads and in the villages and towns they occupied, attackers shot people on the streets and in cars, they entered and burnt people's homes, killing, injuring and abducting people to Gaza. Hamas military wing and other Palestinian armed groups attacked 24 localities (listed from south to north): Holit, Sufa, Nir Itzhak, Pri Gan, Talmei Yosef, Mivtachim, Yesha, Amioz, Magen, Nir Oz, Nirim, Ein Hashlosa, Kissufim, Re'im, Be'eri, Alumim, Nahal Oz, Kfar Aza, Mefalsim, Yachini, Nir Am, Sderot, Netiv Ha'asara, Karmia, Zikim beach and Ofakim, as well as public spaces and outdoor festivals.¹⁴ Ofakim was the easternmost town attacked that day. Palestinian armed groups also held positions at junctions along road 232 where they ambushed civilians trying to escape and shot at security forces.

25. Hamas military wing and other Palestinian armed groups attacked an outdoor music festival, the Nova festival near Re'im, from the air and ground. Festival-goers were directly targeted by large numbers of attackers at the festival site, on road 232, in public shelters along road 232 and in the surrounding fields and orchards while trying to escape by foot or hide. Some festival-goers were also killed after escaping or fleeing the

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¹³ The area of the Gaza Envelope includes the city of Sderot and 45 smaller villages which are situated within 7 kilometers of the fence with the Gaza strip. See https://fs.knesset.gov.il/globaldocs/MMM/0b0db3c9-da70-ee11-8162-005056aa4246/2_0b0db3c9-da70-ee11-8162-005056aa4246_11_20280.pdf.

¹⁴ <https://oct7map.com/>.

festival site to the surrounding kibbutzim. According to Israeli sources, a total of 364 festival attendees were murdered at the Nova festival site.¹⁵

26. Another attack site was Zikim beach, south of Ashkelon. The attack on Zikim beach was carried out by Hamas military wing attackers arriving from Gaza in rubber boats. Several of the boats were reportedly intercepted by the Israeli Navy at sea. At least 18 civilians, including five children (four boys and one girl), were killed on Zikim beach that day.¹⁶ Hamas military wing attempted to use Zikim beach to infiltrate Israel through the sea, even after 7 October. On 14 October, Israeli Security Forces sank a Hamas boat at sea.¹⁷ Another attempt involving eight Hamas divers was reportedly stopped at sea by Israeli Security Forces on 24 October 2023.

27. According to reports by Israeli sources and testimonies, as well as videos released by Hamas military wing, at least eight Israeli military bases and outposts were attacked on 7 October, among them Zikim, Paga outpost, Nahal Oz outpost¹⁸, Sufa, Urim, Re'im, Kerem Shalom and Erez Crossing. At least 314 Israeli Security Forces personnel were killed in these and other locations.¹⁹

28. At least 18 civilians were also killed in Israel as a result of direct rocket and projectile hits on 7 October and in the weeks that followed. Of these, 10 were Palestinian citizens of Israel and seven were children.²⁰

29. Approximately 150,000 people were evacuated from their homes in southern Israel on and immediately after 7 October. As of April 2024, the majority were still displaced, residing in hotels and temporary housing.²¹

B. Rocket and mortar attacks into Israel

30. According to Israeli sources, between 7 October 2023 and 26 May 2024, Hamas armed wing and other armed groups launched over 12,500 rockets and mortar shells into Israel from the Gaza Strip.²² While most rockets were intercepted by the Iron Dome system, these attacks resulted in civilian casualties and property damage in Israel. At least 18 civilians were killed in Israel as a result of direct rocket and projectile hits on 7 October and in the weeks that followed.²³ Tens of thousands of civilians from southern Israel, including those near the Gaza border, were evacuated to safer locations.

31. Hamas military wing and the Palestinian Islamic Jihad publicly claimed responsibility for these attacks. For instance, on 7 October 2023, Mohammed Deif, Head of Hamas military wing al-Qassam Brigades, announced: “the first strike, which targeted enemy positions, airports, and military fortifications, exceeded 5,000 missiles and shells”. While this statement referenced potential military targets, another statement

¹⁵ <https://www.gov.il/en/departments/news/swords-of-iron-war-in-the-south-7-oct-2023>

¹⁶ Ibid.

¹⁷ <https://www.idf.il/%D7%90%D7%AA%D7%A8%D7%99-%D7%99%D7%97%D7%99%D7%93%D7%95%D7%AA/%D7%99%D7%95%D7%9E%D7%9F-%D7%94%D7%9E%D7%9C%D7%97%D7%9E%D7%94/%D7%9B%D7%9C-%D7%94%D7%9B%D7%AA%D7%91%D7%95%D7%AA/%D7%94%D7%A4%D7%A6%D7%95%D7%AA/%D7%97%D7%A8%D7%91%D7%95%D7%AA-%D7%91%D7%A8%D7%96%D7%9C-%D7%9E%D7%9C%D7%97%D7%9E%D7%94-%D7%99%D7%97%D7%99%D7%93%D7%AA-%D7%A1%D7%A0%D7%A4%D7%99%D7%A8-%D7%97%D7%99%D7%9C-%D7%94%D7%99%D7%9D-%D7%AA%D7%A7%D7%99%D7%A4%D7%94-%D7%9E%D7%97%D7%91%D7%9C%D7%99%D7%9D-%D7%97%D7%99%D7%99%D7%9C%D7%99%D7%9D/>

¹⁸ See section G of this report.

¹⁹ <https://www.gov.il/en/departments/news/swords-of-iron-war-in-the-south-7-oct-2023>

²⁰ <https://www.gov.il/en/Departments/news/swords-of-iron-civilian-casualties#Civilian%20casualties>

²¹ https://www.gov.il/BlobFolder/news/swords-of-iron-war-in-the-south-7-oct-2023/en/English_Swords_of_Iron_Israel-Hamas%20Conflict%202023.pdf

²² <https://www.gov.il/en/departments/news/swords-of-iron-war-in-the-south-7-oct-2023>

²³ <https://www.gov.il/en/Departments/news/swords-of-iron-civilian-casualties#Civilian%20casualties>

by Palestinian Islamic Jihad spokesman Abu Hamza on the same day highlighted continuing missile attacks by Palestinian Islamic Jihad fighters on Israeli communities near the Gaza border.

32. Additionally, the Commission found several public statements published by Hamas on 7 October 2023, in which they declared that they intentionally fired rockets at civilian targets in Israel. In one such case, the al-Qassam Brigades claimed responsibility for firing 150 missiles towards Tel Aviv and later published a video of the destruction caused by the rocket attack. Hamas made similar announcements about rockets fired at Ashkelon and Beersheba and published videos showing the damage to residential buildings following the strikes.

33. The Commission notes that rockets fired by Palestinian armed groups lack precision guidance systems and are inherently inaccurate. Despite advancements in recent years in rocket capabilities, such as increased stockpiling, production, and range expansion up to 250 kilometres, along with the ability to launch larger salvos to overwhelm interception systems like the Iron Dome, their accuracy in distinguishing between military and civilian targets remains limited.²⁴

C. Attack on kibbutz Be'eri

General information and timeline

34. Kibbutz Be'eri suffered one of the highest death tolls of all the villages, as a result of the 7 October attack: 105 residents of the kibbutz were killed by the military wings of Hamas military wing and Palestinian Islamic Jihad as well as Palestinian civilians.²⁵ The victims constituted almost 10 percent of the population of the kibbutz. In addition, 30 people were abducted from Be'eri and taken to the Gaza Strip.²⁶ A least 57 structures in the kibbutz were destroyed or sustained damage, amounting to more than one third of all residential buildings.

35. According to security camera footages, the attack on kibbutz Be'eri started at around 06:55 on 7 October, when two members of the military wing of Hamas approached the main entrance of the kibbutz. Unable to open the yellow security gate, they awaited the arrival of a local car. At 06:57, a blue Mazda approached the gate. The militants then shot and killed the three men inside the car and entered through the open gate. The Commission verified that the three men who were killed at the gate had escaped from the Nova festival intending to seek refuge in the kibbutz. At approximately 07:35, some 60 armed Hamas militants gathered near the Be'eri Crater Reserve, approximately 2.5 kilometers from the kibbutz, and headed in a convoy of motorbikes and pick-up trucks towards the kibbutz. Shortly after, on road 232, the convoy was joined by a Toyota pick-up truck carrying some eight to ten militants. According to the analysis of the evidence collected by the Commission, the militants entered the kibbutz through at least three different points.

36. In total, the Commission estimates that from 70 to 150 members of Palestinian armed groups and armed and unarmed Palestinian civilians attacked kibbutz Be'eri that day. By 14:30 on 7 October, the attackers were effectively controlling the kibbutz. At 22:00 on 8 October, Israeli Security Forces announced that they were in control of the kibbutz while the full elimination of all militants was reported in the afternoon of 9 October.

Killing and causing bodily harm

37. Once attackers entered the kibbutz, they proceeded to shoot at residents, cars, pets and houses. From 08:30 onwards, they systematically moved from house to house,

²⁴ As noted by the Commission previously in A/78/198 (2023) para 51.

²⁵ <https://www.gov.il/en/departments/news/swords-of-iron-civilian-casualties>; <https://oct7map.com>

²⁶ <https://govextra.gov.il/media/qxpetcbv/isra%C3%AB1-hostages-bring-them-home-october-24-english.pdf>

entering by force, killing and injuring many residents and abducting others to Gaza. Since most of the residents had been hiding in safe-rooms, attackers blasted and shot at doors and used hand-grenades and other means to set houses on fire, all in an attempt to force people to leave their safe rooms.

38. The victims of the attack on Be'eri included at least 42 women, 10 children and 45 older persons (aged over 65).²⁷ The youngest victim was Mila Cohen a 9-month-old baby, while the oldest victim was 88-year-old Hana Kritzman. Sixteen families lost two or more family members as a result of the attack.²⁸

39. In one incident investigated by the Commission, members of three generations of the Cohen family were killed by members of armed groups and other people from Gaza, including 73-year-old Yona Cohen, her 43-year-old son Ohad Cohen and his 9-month-old daughter Mila. Ohad's wife and their two other sons survived the attack. At the onset of the attack, the family hid in the safe room of their house. At 11:47, Ohad texted to his cousin that militants were massacring residents and burning homes. By this time, Ohad's mother, Yona Cohen, had already been killed by the gunmen in her house located in the western part of the kibbutz. The Commission assesses that at approximately 12:50 militants broke into the safe room, shot and killed baby Mila Cohen, who was held in her mother's arms, and shot and killed Ohad Cohen. Attackers then captured Ohad's wife and their two sons and brought them to the back gate of the kibbutz, where they encountered Israeli Security Forces' firing in their direction. All three were seriously injured in the crossfire but survived.

40. In another incident investigated by the Commission, three members of the Sharabi family, mother Lianne and daughters 16-year-old Nova and 13-year-old Yahel were killed by members of armed groups, while father Eli was abducted to Gaza. Eli's brother Yossi, residing in an adjacent house, was also abducted to Gaza where he was killed in captivity. On 9 February 2024, Israeli Security Forces released the results of an internal investigation, where it concluded that Yossi Sharabi was likely killed as a result of the Israeli Air Force strike on a building, which caused the collapse of the nearby structure where he was held.

41. In another incident investigated by the Commission, four of the six members of the Even family were killed by members of armed groups: mother Rinat Segev-Even, father Chen Even and their sons 16-year-old Alon and 14-year-old Ido. Two remaining sons, 11 and 8 years old, survived the attack. According to the Commission's investigation, the family had been hiding in the safe room of their home in the Vineyard neighborhood when at around midday, militants set their house on fire. The parents decided to take their children and jump out of the window of the second floor of the house. They landed safely and hid under the trees lining the perimeter of their house. At few hours later, militants located them and shot and killed the parents and the two older sons. The two youngest sons hid under their parents' and brothers' bodies and survived.

42. Some Be'eri residents were also killed by militants while being abducted to Gaza. In one incident investigated by the Commission, at around 10:30, five Israeli civilians were taken barefoot from their homes along the road separating the Vineyard and Olives neighborhoods of the kibbutz. Four of the five are seemingly dead in another video filmed sometime between 10:30 and 11:00, with their bodies located close to the kibbutz perimeter fence.

Abduction

43. Thirty Israeli civilians were abducted from kibbutz Be'eri to the Gaza Strip by members of the military wings of Hamas and the Palestinian Islamic Jihad as well as armed and unarmed civilians from Gaza.²⁹ Nine women and ten children from

²⁷ <https://www.gov.il/en/departments/news/swords-of-iron-civilian-casualties>; <https://oct7map.com>.

²⁸ <https://www.gov.il/en/departments/news/swords-of-iron-civilian-casualties>.

²⁹ <https://govextra.gov.il/media/qxpetcbv/isra%C3%AB1-hostages-bring-them-home-october-24-english.pdf>

Be'eri were released from captivity during the temporary ceasefire and exchange between Hamas and Israel from 24 to 30 November 2023.³⁰ Six abductees from Be'eri have died or were killed in captivity by Israeli Security Forces and Palestinian armed groups, including two women and two older persons.

44. In one abduction case, a 57-year-old Be'eri woman was captured by Palestinian militants and unarmed civilians from Gaza and forcibly taken to Gaza. In a video verified by the Commission she is seen barefoot and forcibly led by unarmed men in civilian clothes. She is surrounded by four unarmed men in civilian clothes, walking and cycling. In the video, the abductors call her "dog" while passing by another armed militant waiting on the other side of the fence.

45. Throughout the day, Palestinian militants and civilians from Gaza also took Israeli bodies and transported them to Gaza, to be used in future prisoner release negotiations. In one such example, at 10:33, two Palestinian men in civilian clothes approached the body of Yonatan Samarno, who had been shot in a vehicle at the entrance of the kibbutz earlier that day (see para 35 above), loaded him into a white SUV and left the kibbutz to Gaza.

Destruction of property

46. According to satellite imagery analysis carried out by the Commission, kibbutz Be'eri sustained 26 structures completely destroyed, four severely damaged and 27 moderately damaged. This corresponds to around 34 percent of the total structures in the kibbutz. The Vineyard and Olives neighbourhoods experienced the most significant damage, with 16 destroyed and damaged structures in the Vineyard neighbourhood and 12 destroyed and damaged structures in the Olives neighborhood.

D. Attack on kibbutz Nir Oz

General information and timeline

47. The attack on kibbutz Nir Oz resulted in the killing of 46 civilians,³¹ including women, children, older people and those with foreign nationalities, equivalent to almost 10 percent of the population of the kibbutz. Members of the military wings of Hamas, the Palestinian Islamic Jihad, the Al-Aqsa Martyrs' Brigades, the Palestinian Mujahideen Movement and the Popular Resistance Committees as well as armed and unarmed civilians from Gaza were involved in the attack and abducted 72 residents of the kibbutz to the Gaza Strip.³² This represents the largest group of people abducted from one single location. As of May 2024, at least five of them have died or been killed in captivity, either by their captors or by the Israeli military. Some 100 militants and civilians from Gaza attacked the kibbutz that day. There was virtually no fighting between Israeli Security Forces and attackers in Nir Oz, because the Israeli forces arrived at the kibbutz at least one hour after most of the attackers had left, leaving the residents essentially defenceless.

48. According to evidence gathered by the Commission, the attack on Nir Oz started at 06:49, when two cars drove into the kibbutz through the northern gate (one of the two main entrances of the kibbutz). Seconds later, at least four armed militants passed through the entrance on foot.

49. At the same time, militants breached the western side of the kibbutz and immediately started targeting and killing civilians. The first killing in the kibbutz was documented as early as 06:57. At that time, relatives of 74-year-old Bracha Levinson viewed a video uploaded to her Facebook page showing her lying in a pool of blood in the living room of her house in Nir Oz with a man pointing a gun at her. Family members

³⁰ <https://www.gov.il/en/departments/news/return-of-hostages-24-nov-2023>

³¹ <https://www.gov.il/en/departments/news/swords-of-iron-civilian-casualties>

³² <https://govextra.gov.il/media/qxpetcbv/isra%C3%AB1-hostages-bring-them-home-october-24-english.pdf>

later learned that Levinson's house was burned down with her body inside. It took one month for her remains to be officially identified.

50. From 07:15, militants were walking around and driving motorbikes inside the kibbutz, and later in the morning they started breaking into houses, shooting at families in hiding and abducting them. At 08:40, a group of Palestinian civilians entered the kibbutz. Members of the group drove around the kibbutz, looting bikes, tractors and other equipment.

51. From 10:00 onwards, messaging in the residents' chat group intensified, reporting attackers breaking into houses and setting them on fire, as well as killings and abductions. According to the testimonies of survivors, the attackers were operating without resistance in the kibbutz. They left the kibbutz to return to Gaza sometime between 13:00 and 13:23.

52. According to reports, the kibbutz's rapid response team was inadequately prepared to counter the attackers. Many could not reach the armoury to pick up weapons, while those with weapons did not have sufficient ammunition. At least one member of the rapid response team was killed during the attack and the commander of the team was injured. At 13:50, the first Israeli troops started arriving at the kibbutz. Fighters from marine commando unit *Shayetet 13* arrived by helicopter at 14:40. Despite the militants' departure to Gaza, followed by the security forces' arrival, messages continued to be posted in the kibbutz chat groups with requests for help until 17:30. The rescue and evacuation of the surviving residents to Eilat was only concluded on the afternoon of 8 October 2023.

Killing and causing bodily harm

53. At 06:06 70-year-old Judith Weinstein and 73-year-old Gadi Haggai, both dual US-Israeli nationals, left their home for a morning walk. Weinstein filmed the rocket fire at 06:35 and the arrival of the militants on motorbikes, who shot her and her husband sometime before 07:00, leaving them lying down on the ground. The couple was considered missing until 28 December 2023, when it was announced that Weinstein was killed on 7 October 2023 and her body was taken to Gaza, while Haggai was alive when he was abducted by members of armed groups and later died in captivity. On 6 January 2024, the Mujahideen Brigades published a video accusing Binyamin Netanyahu of the death of Weinstein and Haggai. As of May 2024, their bodies were being held in Gaza.

54. Militants also killed 79-year-old Carmela Dan along with her 12-year-old granddaughter, Noya Dan, a girl on the autistic spectrum, who was visiting during that weekend. The two hid in the safe room of Carmela's house. Militants started attacking the house at around 11:00. Noya Dan sent several voice messages to her mother sometime after 12:02 telling her that there was an explosion at the house. By 12:28 Carmela and Noya did not respond to messages anymore. Following the attack it was discovered that the house had been set on fire. Israeli authorities considered the two as hostages until 19 October 2023, when it was officially announced that their bodies were discovered by Israeli Security Forces, in the Gaza Strip, near the border with Israel. Their remains were later identified using DNA matching analysis. According to Israeli sources, Noya and Carmela were killed while being abducted, allegedly because they were slowing down their captors.

Abduction

55. Those abducted from Nir Oz included Israelis, foreigners³³ and people with dual nationality. They ranged in age from 9 months to 85 years, with a 9-month-old baby being the youngest person abducted to Gaza during the 7 October attack. Seventy-two people were abducted from Nir Oz, including 35 women, 21 people aged over 65 and 14 children, constituting almost half the total number of children abducted on 7 October 2023, which was 31.

³³ <https://www.gov.il/en/departments/news/return-of-hostages-24-nov-2023>.

56. Based on evidence verified by the Commission, attackers started abducting civilians shortly after 08:00. Two brothers aged 13 and 16 years old were abducted at around 8:10. In an interview with the Associated Press, the boys' mother reported that during the attack her sons were hiding in the safe room of her house, while she was away in another kibbutz. At 08:10, her 13 year old son called to tell her that gunmen had broken into the house. She noted that, while on the phone with her son, she could hear voices shouting in Arabic and her son saying "Don't take me. I'm too young." The brothers were abducted to Gaza, and later released during the November 2023 ceasefire. Their father was killed on the day of the attack and his partner was also abducted to Gaza.

57. Family members of an 84-year-old woman, who had been hiding in the safe room of her house since the beginning of the attack, lost contact with her at around 10:00. A video posted online by Palestinian Islamic Jihad showed scenes of the woman being hauled into a white pickup truck by two armed militants. According to her daughter, the abduction was witnessed by a neighbour, who tried to rescue her but was shot at by the militants and had to retreat back to the safe room of his house. Family members stated that, when they tried to call her phone at 16:00 that day, someone with an Arabic accent answered in English and said: "It's Hamas, it's Hamas." She was released from captivity on 28 November 2023.

58. Three generations of an Israeli-Argentinian family from kibbutz Nir Oz were attacked on 7 October. Militants and unarmed civilians from Gaza abducted the entire family: 34-year-old father, 32-year-old mother and their four year old and nine-month-old infants. The children's grandparents were considered missing until 21 October 2023, when their bodies were recovered near the Gaza border and it was confirmed that they had been killed on 7 October.³⁴

59. At around 14:00 on 7 October, the Associated Press published a series of photos depicting one of the family members being transported by the attackers near the border with Gaza. The photos depict the father sitting on a motorbike between two men in civilian clothes, with his head covered in blood. His hands are covering his head, while people from the crowd surround the motorbike and try to hit him. In another image from the same day, he is seen surrounded by people in civilian clothes, his hands bloody, and he is barefoot. All the people in the crowd are seemingly unarmed and dressed as civilians with the exception of one photograph depicting a militant in combat webbing with the insignia of Al-Qassam Brigades. Based on the photographic and video evidence depicting the kidnapping of the family, the Commission concludes on reasonable grounds that Palestinian civilians directly participated in this incident.

60. An 85-year-old woman was abducted from Nir Oz by members of the military wing of Hamas during the 7 October attack. In an interview given following her release from captivity, she stated that the attackers broke into her house, stole all of her money and then forced her into a golf cart and drove her to Gaza.

61. Photos of the abductee arriving in Gaza, verified by the Commission, depict her sitting with two abductors in the golf cart, one of whom was armed and wearing combat webbing and the distinctive green headband of the al-Qassam Brigades, while the driver of the cart is unarmed and dressed as a civilian. Another video of her golf cart situated in a densely built district of Gaza appeared on social media platforms at approximately 09:45, indicating that she was abducted between 09:00 and 09:40. In the video the golf cart is surrounded by a crowd of people shouting in Arabic and seemingly celebrating the arrival of the hostage. After she was released, she said that there were "people all around ... spitting and shouting".

62. Another family from Nir Oz was abducted almost in its entirety during the attack. The family included a 34-year-old woman, her 68-year-old mother and her two daughters aged four and two, who had been visiting the grandmother that weekend. On hearing the siren at 06:30, the family hid in the grandmother's safe

³⁴ <https://www.gov.il/en/departments/news/swords-of-iron-civilian-casualties>.

room, along with her 79-year-old partner. After an initial ransacking of the house by militants, the grandmother's partner came out of the safe room and tried to negotiate with the militants in Arabic. The attackers asked him for money and the keys to the car and then abducted him. At approximately 11:00, another group of militants broke into the house. They put the two women and two girls in the cart of a tractor and drove them off to Gaza. Later that day, a video was uploaded on social media showing the family in the back of a tractor guarded by an armed militant in combat vest and with a GoPro camera on his forehead. Mother and daughters were released from captivity on 14 November 2023, while the grandmother was killed on the way to Gaza. As of May 2024, the grandmother's 79-year-old partner remains in captivity.

63. According to the 34-year old released abductee's testimony, on the way to Gaza, an exchange of fire erupted between the militants and Israeli Security Forces, who were trying to stop them. As a result of the shooting, her mother was killed, while she herself was wounded in her back and one of her daughters was wounded in her leg.

64. Several members of another family from Nir Oz were killed or abducted during the 7 October attack, including Carmela and Noya Dan (see para 54 of this report). Another member of the same family, who was 52 years old at the time, was abducted to Gaza with his two children, aged 16 and 11 years old respectively. Like many other families, they had been hiding in their safe room when attackers entered the house, prompting the man and his two children to escape through the window and hide in nearby bushes. According to the children's mother, who was hiding in a different house of the kibbutz, at 08:30 she received the last communication from the children, in which they told her that they were in the bushes and the militants were close to them. In an interview following her release, the 16-year-old daughter stated that, after spending two hours in hiding, they were discovered and had to flee again. One of the militants shot at her legs but missed. Eventually, she could not catch up with her father and a group of 10 armed Palestinian men dressed in civilian clothing abducted her. The group also included two Palestinian children. Two of the men put her on a motorcycle and drove off to Gaza.

65. Her 11-year-old brother was abducted separately from his sister and father. The Commission viewed and verified a video depicting his abduction, showing a man dressed in civilian clothes holding the boy under his arms, pulling him away in the direction of the western gate of the kibbutz. The abductor is accompanied by another man in civilian clothes armed with an automatic rifle and a Palestinian minor boy. The siblings were released on 27 November 2023, while their father remains in captivity as of 31 May 2024.

66. As of May 2024, 40 Nir Oz abductees, including 25 women, 12 children (seven girls and five boys), two Thai nationals and one resident from Philippines, have been released. At least 27 Israeli hostages from Nir Oz, including two women and two minors, remain in Gaza.³⁵ As of May 2024, at least eight hostages from Nir Oz have died in captivity, including one woman and five people aged over 65, and the deaths of three more hostages have been announced by various militant groups, though not yet confirmed by the Israeli Security Forces.

Destruction of property

67. A damage assessment conducted by the Israeli Engineers Association in Nir Oz found that over 80 percent of the residential buildings in the kibbutz were severely damaged as a result of the 7 October attack. Most of these houses were affected by fire: "All the structures were either burned down, or the house was destroyed to the point that not a single thing was left intact."

³⁵ <https://www.gov.il/en/departments/news/return-of-hostages-24-nov-2023>.

E. Attack on the Nova music festival

Timeline and crime scenes

68. The Nova festival saw the highest number of people killed by the military wing of Hamas and other Palestinian armed groups on 7 October in one location. Nearly a quarter of all Israeli casualties that day were from the Nova festival. 379 people were killed either at the site, near kibbutz Re'im or in adjacent locations. Of these, at least 364 were festival attendees out of some 3,000 festival-goers.³⁶ Around 40 people were taken hostage to Gaza. In the weeks following the attack, Israeli media reported that, according to the Israeli security assessment, the militants did not know about the festival site in advance of the attack. Following the attack, Israeli security officials concluded that the militants found out about the festival as they flew over the area using motorized hang-gliders.³⁷

69. At 06:22, sirens were heard at the festival site, an open space located between kibbutz Re'im and kibbutz Be'eri, alerting people to a rocket attack from Gaza. Shortly after that, the Chief of Police of Ofakim Station, who was present at the scene, issued an order to disperse the Nova festival and instructed festival-goers to leave the site. Reportedly the Chief of Police was operating under instructions issued by the Southern Police Command. According to official reports, there were 40 police officers on-site at this time, securing the festival site. According to an interim investigation by the Southern Police Command, festival-goers were dispersed from the site almost immediately after the sirens started, allowing them some 30 minutes to escape before the militants reached the site.

70. In a media interview, a police officer stationed at the site stated that he first knew about the arrival of Palestinian militants in areas adjacent to the site at approximately 06:50, when a young woman ran towards the festival's first aid station with a bloody face. She told officers that there were Palestinian militants on road 232 shooting at civilians on the road. The same officer reported that he then informed other police officers to move the police force from the festival site to the main road intersection. He noticed a huge traffic jam at the intersection, with many empty cars blocking the road. Under heavy fire from Palestinian militants and based on his understanding that road 232 was unsafe towards Be'eri to the north and Re'im to the south, he instructed a large group of festival-goers to cross the road and move along a field in the direction of Urim to the east. According to the police's interim investigation, police received the first report of shooting close to the festival site at 07:01. At around the same time, militants positioned themselves along road 232, shooting festival-goers trying to escape by car as well as other passing vehicles. At around 08:00, Palestinian militants reached the main festival site and started shooting at fleeing and hiding festival-goers.

71. Palestinian militants essentially kept the festival site under their effective control until at least 12.30, shooting and killing at will. Survivor accounts of those who fled by foot over open fields in the eastern direction described the experience as "like shooting ducks" and "perpetrators were driving bikes and golfcarts over the field and were among running partygoers and shot them". While some decided to flee east during this time³⁸, other festival-goers tried to hide inside the main festival arena or in other locations around the festival site. Many of them were subsequently killed or injured.

Killing, and causing bodily harm in the main Nova festival area

72. The main festival site was under the full control of Palestinian militants for up to four hours, from around 08:30 until around 12:30. During this period, members of Hamas military wing, other Palestinian armed groups and Palestinians dressed in civilian clothes actively searched for people who were hiding and killed them when found. The

³⁶ <https://www.gov.il/en/departments/news/swords-of-iron-war-in-the-south-7-oct-2023>

³⁷ This conclusion is reportedly based on maps found on detained or killed militants from the Nova site who carried maps of other locations.

³⁸ See more in para 85 below.

majority of festival-goers who decided to stay and hide at the main festival site were killed during this period.

73. The Commission viewed and verified a video showing two people fleeing the main festival site near the perimeter fence at around 09:20. The two are seen running past a silver car parked in the main festival site. One of them drops suddenly to the ground, likely having just been shot, and stops moving. The second person is seen hiding behind the silver car. Hamas militants are then seen dragging a person, likely taking the person captive. The second hidden person is clearly visible in the background, crouching near the silver car. Immediately afterwards, an armed militant approaches the silver car and shoots the hiding man at close range. Dash-cam footage of the same location from 12:09 shows a group of Palestinians dressed in civilian clothes who proceed to search the body lying on the ground and loot the vehicle. At 12:12 dash-cam footage shows armed Palestinians discovering a young woman hiding inside the silver vehicle. They pull her out of the vehicle and surround her. The woman is then seen waving her arms, trying to attract attention to herself, likely to attract the attention of Israeli Security Forces that entered the scene at around that time. The video cuts after this.

74. At least 15 people were killed in the area in front of and inside the main bar. Israeli troops arriving on the scene at 13:08 that day filmed their discovery of the bodies. The first bodies are seen lying on the ground outside the bar area and at least seven other bodies are visible inside the bar area.

75. Video footage filmed by a survivor who was hiding under the stage reveals that at 08:19 the stage area was largely empty, while at 08:26 at least 11 people were hiding there. Sounds of sporadic shooting from a distance can be heard in the background of both videos, suggesting that armed militants had not quite reached the location but were closing in. By 09:14 several of those who hid under the stage left the area to hide in surrounding bushes. The survivor who filmed these videos stated that he had hidden under the stage for around one hour, during which period people kept joining the hiding place, until there were some 30 to 40 people hiding there. After around one hour they heard someone shouting, “get out from the stage, they will kill you”. The survivor then decided to leave the stage area along with several others and ran some 200 meters to nearby bushes where they hid for around five hours until they were rescued.

76. One survivor, who was hiding in a white shipping container in the main festival area, reported seeing out of the window militants opening fridge doors at the bar and shooting at those who were hiding inside, and then shooting at the space under the stage. He said “I heard them executing people there. Shouting, shooting and then quiet. Shouting, shooting and then quiet.” The same survivor reported a van parked in the vicinity of the stage that was set ablaze, killing those hiding inside.

77. Approximately 14 people were killed while hiding in yellow garbage containers, located northeast of the parking area. A female survivor of this incident stated that she had tried to escape to her vehicle along with her partner but failed to reach the vehicle and had to turn around in the direction of the containers. The two then hid inside one of the yellow containers, while armed Palestinians were shooting outside. Militants then threw grenades into a garbage container adjacent to the one they were hiding in. They heard a girl shouting: “please don’t take me, please leave me alone”. The survivor was injured by a bullet to her hip but managed to lie quietly until she was rescued by other Israeli civilians who evacuated her to the hospital. According to the testimony of a company commander of Givati brigade, one of the first members of Israeli Security Forces to arrive at the scene, his company arrived at around 10:30 and they were told not to shoot at the yellow containers since civilians were hiding inside. They heard shouts from one of the containers and proceeded to rescue and evacuate the people. They witnessed bodies lying on the garbage and injured people. According to him, the evacuation of people from the containers was carried out while armed Palestinians, including looters, were still at the scene.

78. Adjacent to the yellow garbage containers was a row of portable yellow toilets where festival-goers had reportedly hidden. The Commission was unable to confirm the total number of people who had hidden there. It is likely that only three people, two

women and one man, all hiding in one stall, survived. The two female survivors stated in a media interview that a large group of armed Palestinians positioned themselves close to their toilet stalls and were shooting at the festival site from there, with their backs to the toilet stalls. After a while they heard someone asking in Hebrew, “is anyone here?”. They did not respond and seconds later they heard “Allahu Akbar”, and the militants started shooting at the line of toilet stalls. Footage published by militants shows them systematically shooting into all the toilet stalls. The three survivors spent nine hours in the toilet stall until they were rescued.

Killing and causing bodily harm on road 232 and surrounding areas

79. Road 232, which links the villages in the Otef Aza region, played a key role in the 7 October attack. Palestinian militants’ control of this road from the early hours of the day was key to their ability both to send reinforcements to the Nova site and to block or delay the arrival of Israeli Security Forces. Their control of key intersections along this road was arguably a vital component in their ability to carry out their attacks on the villages of Otef Aza and also a major hindrance to the arrival of security forces and medical personnel to treat victims and evacuate people. Given the large deployment of armed members of Hamas military wing and of other Palestinian armed groups along this road, the capture of the road appears to have been planned in advance to facilitate other attacks in the area and prevent or delay the arrival of Israeli reinforcements.

80. Following the attack, hundreds of cars were found around the exit from the Nova festival site spilling over to road 232. One witness stated that he saw bodies piled on top of each other. Another witness told the Commission that, while he was driving along road 232 on 8 October, cars were still burning. Many bodies were strewn along the road and blood stains were visible on the road. A first responder reported receiving bodies for identification at Shura Camp. He stated that many of the bodies recovered from the Nova festival cars were badly burned. Footage shot by an Israeli news channel shows overturned vehicles at the sides of the road. ZAKA³⁹ teams reported that they found burned human remains in the vehicles.

81. Dozens of militants are seen in dashcam footage arriving at the area of the exit from the Nova festival site onto road 232, while people are fleeing to the field. The militants are dressed in full or partial uniforms with combat webbing. They arrive in at least three pick-up trucks, disembark the trucks and shoot towards the open field where people can be seen running in the distance. In another video taken by the same dashcam, a man is seen being dragged by militants and then shot on the side of the road.

82. Many of those who hid in parked cars at the intersection were killed in their cars by militants who, according to reports, methodologically approached each car and killed those inside. One witness stated on an Israeli news segment “I hid in a car under the glove compartment, barely beathing, not talking. Keeping quiet. The terrorists just shot at all the cars there. Car, car, car, car. And then they arrived with us, the terrorists. I was with my head down and my friend had his head up.” A second witness hiding in the same car continued the testimony by saying: “I saw two terrorists on the hood of my car. It was a matter of seconds, he looked at me, I looked at him. And then he turned his weapon towards me. Then I heard a really loud noise of something driving on the road, I saw a tank⁴⁰ coming towards us who scared the terrorists away.”

83. An investigative report published in Haaretz found that Palestinian militants laid ambushes at 37 different locations on road 232 where they killed tens of people.

³⁹ Zaka is an organization of voluntary community emergency response teams in Israel, each operating in a police district. These organizations are not part of the Israeli Government but are recognized by the Israeli government. The organization’s full name is “ZAKA – Identification, Extraction and Rescue – True Kindness”. https://zakaworld.org/?gad_source=1&gclid=CjwKCAjwnv-vBhBdEiwABCYQA7A27v811M1M2ouBebzaX9WD_u6muw8MIX_i18-EbwYSY7E_J0NmFBocKsgQAvD_BwE. See also section N of this report.

⁴⁰ See more in paras 218-221 of this report.

This list includes the Re'im intersection (51 killed), kibbutz Mefalsin (42 killed), Gama intersection (29 killed) and Sha'ar Hanegev intersection (26 killed).⁴¹

84. The Commission documented information on the ambush set by militants on road 232 close to Meflasim. One survivor and her husband stated in a radio interview that they escaped from the Nova festival at 06:50 and drove on road 232 north for eight minutes towards kibbutz Mefalsim. At around 07:00 they reached an intersection close to Mefalsim when they saw militants on the road. The survivor described the scene as a 'firing squad' positioned just before the kibbutz. Their car was shot at multiple times, resulting in the explosion of their tyres. She stated that one of the shooters was a young boy around 12-years-old. Following the shooting their car was no longer operational and the couple escaped to the side of the road, where they lay down on the ground and pretended to be dead. They lay on the ground for some five hours. The witness stated that, while they were lying on the ground, she witnessed militants burning people alive, dragging women by their hair to a pickup truck and verifying the killing of people who were seated in their cars. At some point one of the militants came near them and smashed her elbow by jumping on it while saying "Allahu Akbar sharmuta" and shot towards the couple but missed.

85. Several cars that were stuck in the traffic jam at the front of the exit also managed to reverse out and drive through a field east of the site, although most people abandoned their cars and fled by foot. One survivor stated in a filmed interview that she saw 200 to 300 armed militants in the field with some 50 to 60 closing in from each side. The militants, driving on motorbikes and in pick-up trucks, were shooting at the fleeing people. The survivor observed that "everyone who stayed alive did so because someone else got the bullet... we saw people running and just falling." The Commission viewed and verified footage from the area described by the survivor and observed hundreds of fleeing festival-goers running in a field, with gunshots heard in the background.

86. Many of those who survived the run through the open field were eventually picked up by fleeing cars, some cars packed with up to 8 people. Others managed to cross the field by foot and hide in the surrounding orchards and small ditches.

Killing and causing bodily harm in public shelters

87. The Commission investigated and verified four incidents of mass killings in public shelters along road 232. The four incidents took place in public shelters at two bus stops next to the kibbutz Re'im junction, on the western and eastern sides of the road, at the bus stop next to the kibbutz Be'eri junction and at the bus stop next to the kibbutz Alumim junction.

88. A group composed of some 25 to 30 festival-goers arrived at the western Re'im shelter as early as 06:50.⁴² The shelter is distinguished by a mural of a blue bird, painted on its front. One survivor told the Commission that, unaware of the infiltration of militants, they tried to seek refuge from the rockets in the adjacent kibbutz Re'im but the gate was shut. They then decided to hide from the rockets in the nearby Re'im shelter located on road 232.

89. According to the survivor, they first realised that militants had infiltrated and that they were in danger of an attack when they heard the militants approaching outside the shelter at around 07:50. Other reports indicate that they knew there was an infiltration but believed that the military presence in the area would deal with the threat. By 07:55, the space around the shelter was surrounded by militants. Verified dash-cam footage indicates that at 07:56 a Palestinian citizen of Israel who was hiding in the shelter was forcibly removed by militants, stripped to his waist, beaten and abused. His family reported to the media that he was later killed.

⁴¹ <https://www.haaretz.co.il/news/education/2024-04-11/ty-article-magazine/.premium/0000018e-a3b4-d24a-abbf-efbd224b0000>.

⁴² The shelter is located on the western side of the road, accommodating drivers driving south from Be'eri to Re'im.

90. At approximately 08:00, Hamas militants began throwing grenades into the shelter. According to dash-cam footage examined by the Commission, before the first grenade was thrown one of the militants shouted in Arabic “Don’t throw a bomb, we need to take them as prisoners”. The Commission’s investigation reveals that, after they threw the first grenade, a young man who was hiding inside ran out and was shot and killed. The man was visibly unarmed when he was shot while trying to escape and was likely the first person from the shelter who was killed. After that, the gunmen returned to the shelter and started shooting inside, following which they fired an RPG into the shelter. According to witness testimony, while the militants surrounded the shelter, several men inside who were sitting towards the front of it, including Aner Shapira, a soldier on leave, agreed that, if grenades were thrown into the shelter, they would grab them and throw them back out in the direction of the militants. The militants threw six more grenades into the shelter, most of which were thrown back out by Shapira. According to reports, the eighth grenade that he tried to grab and throw out exploded in his hand, killing him. Following his death, at least three other grenades were thrown into the shelter and exploded. According to a survivor of the attack, these were stun/shock and fragmentation grenades.

91. Once the grenade attacks ended, Hamas militants entered the shelter and removed four survivors – three men and one woman. The three men were loaded onto a pickup truck. They were visibly seriously wounded from the grenade attack, including one whose hand had been severed. He is seen in the video with a self-fashioned tourniquet, and the bones in his severed arm are visible as he is pushed into the back of the pickup truck. Militants also abducted another Israeli man from another public shelter, who was also loaded into the truck, in addition to the three male abductees from the western Re’im shelter. Dashcam video footage indicates that this additional man was later killed as he tried to escape from the truck. Israeli sources state that he was killed that day. A video taken on the mobile phone of one of the attackers reveals that one woman was taken from the shelter. According to a survivor from the shelter the woman was released several minutes later for unknown reasons. Following the abduction, militants went back inside and shot indiscriminately at the persons who remained there. Reportedly only seven persons survived the attack, hiding under dead bodies and pretending to be dead.

92. Some 30 to 40 persons hid in a shelter at Re’im junction on the eastern side of the road. The shelter is distinguished by a mural of brown and green landscape, painted on the front. Among those killed in the shelter were sisters Norel and Noya Manzuri. Their mother an Israeli tv that she spoke to Norel at 07:00 and she confirmed that they were hiding in the shelter. The parents lost contact with their daughters at 07:39. One survivor, who had been part of the same group of friends as the sisters, stated that, once they saw militants approaching, they all tried to huddle by the back wall. A militant stood at the entrance to the shelter and fired a Kalashnikov indiscriminately into it. Then militants threw grenades into the shelter. A video taken a little after 07:00 depicts festival-goers sitting in the shelter in a relaxed manner in a spacious environment. Shortly after, more festival-goers joined them and the space became more cramped. According to another survivor, at around 07:40, someone in the shelter shouted, “the IDF is coming, there is an IDF vehicle here, the IDF is here!”. Moments later those hiding in the shelter were sprayed with bullets and people started screaming and falling on each other. After this initial attack, she recalled hearing someone shout “grenade!”, after which grenades were thrown into the shelter. Some people threw them out. She recalled that the attacks continued sporadically into the shelter over a period of several hours and, when some survivors tried to leave, she heard them being shot. According to the survivor, only seven of those who hid in the shelter survived.

93. A group of 30 festival-goers and other civilians sought refuge in the Alumim public shelter, located north of kibbutz Be’eri along road 232. The shelter is distinguished by a mural of a bulldog and blue background, painted on its front. According to reports, a police car was parked adjacent to the shelter and a policeman urged passers-by to enter the shelter. A bike-rider, from Nir-Israel who was trying to head back home after the rocket attack started, reported in a media interview that he entered the Alumim shelter at the urging of a policeman. A few minutes after he entered

the shelter, several vehicles of festival-goers arrived and filled the shelter, with some remaining close to the entrance due to the lack of space inside. According to the survivor, several minutes later, shooting was heard outside the shelter. The shooting became heavier and was suddenly directed at the people standing at the entrance of the shelter. Then a grenade was thrown in and exploded. Another grenade was thrown in, which reportedly did not explode. The survivor then exited the shelter, stepping over bodies, and met two police officers outside who told him to get in his vehicle and escape from the area. He found a working vehicle, loaded three injured persons into it and drove towards the Sa'ad intersection. The Commission was able to corroborate several of these details through video footage from the shelter. A 42-second video posted on an Israeli news site, verified by the Commission, shows the shelter with at least six civilian cars and one police car parked outside. In the next shot, from inside the shelter, gunshots are heard and someone says, "everyone calm down, it's the IDF. It's the IDF, it's us". In the next shot an unexploded grenade is visible in the right side of the screen and someone is heard shouting, "Go out! Go out!". In the video people are shouting and at least one person is visibly injured.

94. A second survivor of the Alumim shelter, who had escaped from the Nova festival with two other friends, confirmed in a media report that police stationed nearby advised people to enter the shelter and hide there. According to the survivor, after a few minutes of hiding, the shelter was hit by a rocket propelled grenade (RPG), which caused a wide panic, and some of the shelter collapsed. They then heard a lot of shooting. The survivor estimated that 10 to 20 persons were shooting at the shelter, killing many of those standing at the entrance. The militants then threw fragmentation grenades into the shelter. The survivor noted that, of the approximately 30 persons inside the shelter, only five or six survived. He survived by covering himself with other bodies and escaped when there was a lull in the shooting, some 40 minutes after he had entered. The survivor filmed the moment he emerged from the shelter. In the video his face is blood splattered. Several vehicles are seen directly outside the shelter and there are large blood stains on the pavement and bodies spilling out of the shelter.

95. Approximately 20 to 30 persons hid in a shelter just outside Be'eri.⁴³ The shelter is distinguished by a mural of a girl blowing bubbles, painted on its front wall. A survivor of the incident provided video testimony to an Israeli news channel, stating that she was hiding in the back of the shelter when militants arrived and threw a grenade into the shelter. She noted that one person jumped on the grenade to prevent it from exploding. Militants then shot several rounds inside the shelter. Many persons were killed in the shooting. The survivor, who was positioned in the back of the shelter, was shot in the knee. After this the militants left but returned intermittently during the next seven hours. Israeli Security Forces arrived at around 14:00 and began evacuating survivors. According to the survivor, only 12 persons survived the attack out of tens who hid in the shelter.

96. Survivors recounted feeling terrified, losing sense of time and hoping for a swift end. In a recording from one of the shelters, people are heard shouting "they are killing us!!" and "grenade!", followed by screams. In both the Alumim and western Re'im shelters, survivors stated that the ordeal provoked thoughts of the Holocaust. A survivor from Alumim said, "Now I know how it was in the Holocaust, how it was with the Jews", while a survivor from western Re'im told the Commission, "I was sure that they were going to take me out and shoot us all in a row like in the Holocaust. I told myself - it will be ok, it will be quick. I will be dead soon." The ordeal was especially hard for those who survived by hiding under bodies, as they did not know whether militants would return and when or if they would be rescued. One survivor from the eastern Re'im shelter said, "It was an ordeal. We prayed to die. Nobody wanted to remain alive in that place. We just wanted it to end quickly."

97. The Commission observes that the methods of killing across the shelters were similar: a group of militants arrives, encircles the shelter, attacks with grenades and then

⁴³ According to testimony of another woman who escaped from the Nova festival She stated that she passed the shelter and decided not to hide there as there were too many people already.

proceeds with indiscriminate shooting into the shelter, as well as shooting any persons who try to escape. This pattern suggests that the militants had tactical plans for this situation and standing operational instructions or procedures. The Alumim incident appears to have been shorter overall and included intervals between attacks in which some survivors were able to escape. In Alumin some police were present at various points in the attack, which perhaps also accounted for the intervals, since these police forces were actively engaged in trying to push back the attackers, allowing intervals for escape and evacuation of the wounded. In the western Re'im shelter, militants also abducted people following their attack. The Commission was unable to verify whether people were abducted from the eastern Re'im, Alumim or Be'eri shelters as well.

F. Attack on Zikim beach

98. The attack on Zikim beach was the only attack carried out on 7 October by sea. Security camera video footage from the beach, verified by the Commission, shows that the attack began at 06:45, when one Hamas boat made landfall. Five armed militants are seen emerging from the boat running quickly towards the beach while shooting. According to several reports as well as video footage viewed by the Commission, the Israeli Navy managed to destroy two more approaching boats at sea. Sometime later a second boat made landfall and armed militants engaged in a firefight with the Israeli Navy from the beach. At 06:34, the Israeli Navy alerted the rapid response unit of kibbutz Zikim that there was an active infiltration situation. According to the rapid response team, nine armed militants reached the fence of kibbutz Zikim, of whom four were killed by the team and five escaped back to the beach. In a video published by Hamas after the attack, Hamas armed wing acknowledged responsibility for the attack on Zikim beach and provided more detail on acts committed during the attack. In the video one Hamas naval commando unit is seen mounting a rubber boat. The next scene in the video depicts a chase at sea and the arrival at Zikim beach. The video included scenes shot inside the toilet block at the beach, with Hamas armed wing claiming responsibility for killing those inside.

99. According to Israeli sources, a total of 18 civilians, including five children, were killed on the beach that day.⁴⁴ An investigation by media outlet Hamakom and other media reported that 19 persons were killed.⁴⁵ The Commission found that most victims were killed either in a public shelter on the beach or in the public toilet block.

100. According to survivor statements, the shelter was attacked with grenades sometime between 06:45 and 06:56. In one testimony, a fisherman from Ashdod reported in a media interview that, when he heard the sirens, he ran towards the public shelter, located some 50 meters from the public toilet block. He stated that at first three or four other fishermen were with him in the shelter, while others joined later. He hid under an electricity cabinet at the end of the shelter. He reported hearing something thrown into the shelter and feeling the explosion of a fragmentation grenade. He then saw two militants dressed in uniform and wearing flak jackets, carrying Kalashnikovs.

101. Father and son Aryeh and Eliyahu Uzan were killed in the shelter on the beach. Eliyahu's wife reported to the media that he had called her and said that he was hiding in the shelter and that she lost contact with him soon after that.

102. The Commission listened to recordings of phone calls and viewed screenshots of text messages, corroborating the grenade attack on the shelter and providing more detail on what happened after the attack. According to original phone call recordings played in a news segment, at 06:56 one survivor of the grenade attack called the 102 firefighters' helpline asking for help but the call centre operator did not understand what he was saying. The survivor repeated the request and the call centre operator told him to call the police, stating "Terrorists is for the police". Aryeh Uzan can be heard in background of the call to 102, saying, "Eli is dead, Eli is dead", referring to his son Eliyahu. At

⁴⁴ <https://www.gov.il/en/Departments/news/swords-of-iron-civilian-casualties#ZIKIM>.

⁴⁵ <https://www.ha-makom.co.il/post-revital-zikim-full>.

07:02 the same survivor called the 100 police call centre but there was no answer. At some point, one of those hiding in the shelter managed to reach the police helpline and in the recording sounded frantic, saying “come quick, they are killing us in the shelter”. He managed to tell the call centre that he was in Zikim beach. The call ended with gunshots shortly after.

103. Available information suggests that at least three persons who were alive in the shelter at the time of the calls to the helplines, including Aryeh Uzan, may have been killed by the gunshots heard at the end of the call. At least four persons reportedly survived the shelter attack. One of the survivors said that she survived by pretending to be dead and that the survivors extracted themselves from the shelter after hiding for several hours, without Israeli security forces’ rescue or assistance.

104. Five teenagers (four boys and one girl) and one fisherman hid in the public toilet block in Zikim beach and were killed by Hamas militants sometime after 06:48. The five teenagers were 17-year-old Shahaf Kariaf, 17-year-old Alina Weisbourg, 17-year-old Nadav Tayeb, 16-year-old Or Tasa and 17-year-old Tal Keren. The fisherman was Avi Hasdi. At approximately 06:48, Shahaf sent a video depicting the situation of those hiding in the toilet block. The Commission verified the video and notes that constant gunfire from outside the toilet block is clearly heard. At one point in the video an armed Israeli Security Forces soldier is seen at the door, replacing his rifle cartridge. One teenager is heard asking, “It’s a Hamas boat?” and the soldier responds, “Yes, it’s a Hamas boat that landed on the beach, there are snipers, I don’t know how many. There is a lot of military.” All six were killed by Hamas militants in the toilet block. In another video viewed by the Commission, filmed by Israeli first responders, soldiers are seen arriving at the scene. The body of one armed militant is visible, lying on the sand outside the toilet block, and five bodies are seen inside. One soldier is heard saying, “it is a tough scene, but we have to clear them quickly. Guys, we have no gloves, we need to work with what we have.” This conversation suggests that the Israeli Security Forces soldiers arriving at the scene were not trained for examining or clearing a crime scene.

105. Information was slow to reach the families of those killed at Zikim beach. This appears to be linked to the number of bodies arriving in Shura camp for identification but also to the fact that the beach remained an active combat zone for a period of time after the attack⁴⁶, accounting perhaps for the late detection of the bodies in the shelter. The Commission documented several statements indicating that first responders only arrived at the beach some time after the attack. The Commission confirmed these details with the testimony of a first responder who stated that his unit was sent to Zikim beach to comb the sand and look for human remains around two weeks after the attack. He stated that the unit had to be protected by Israeli Security Forces in its work as the area was still considered unsafe.

G. Attack on Nahal Oz military outpost

106. At least eight Israeli military bases were attacked by members of Palestinian armed groups on 7 October. In the Nahal Oz outpost, members of the military wings of Hamas and the Palestinian Islamic Jihad killed 66 Israeli soldiers, including at least 20 female soldiers. Those killed were largely members of the 13th Battalion of the Golani Brigade and surveillance troops from Unit 414 of the Combat Intelligence Collection Corps.⁴⁷ Two of the male soldiers who were killed were decapitated after death.⁴⁸ In addition to these killings, members of the military arm of Hamas also abducted and brought to the Gaza Strip seven female surveillance soldiers, of whom one was later rescued by Israeli Security Forces and at least one has died in captivity.⁴⁹ Those serving in the Intelligence Collection Corps included 25 unarmed female “*Tazpitanyot*”, a non-

⁴⁶ See para 26 in this report.

⁴⁷ <https://www.gov.il/en/departments/news/swords-of-iron-ISF-casualties>

⁴⁸ See paras 120-121 of this report.

⁴⁹ [https://govextra.gov.il/media/qxpetcbv/isra%C3%AB1-hostages-bring-them-home-october-24-](https://govextra.gov.il/media/qxpetcbv/isra%C3%AB1-hostages-bring-them-home-october-24-english.pdf)

combat role observing a portion of the fence and reporting on any security concerns, as well as operating a remote shooting system called “See-Shoot” (“*Roeh, Yoreh*” in Hebrew).⁵⁰

107. The attack against the Nahal Oz military base began at 06:29, when Palestinian militants started firing projectiles in the direction of the base. At approximately 06:30, surveillance soldiers in the command centre of the base detected militants who approached the fence of the Gaza-Israel border and blew up segments of the fence using explosives. Once the fence was breached, dozens of militants passed through and moved across the fields towards the Nahal Oz outpost.

108. According to one survivor, militants were heard inside the base at 07:00. Around the same time, a surveillance soldier who was later captured and brought to Gaza by the militants, sent her family a video she filmed in the shelter, where all off-duty surveillance soldiers were seeking protection. The video shows some 22 unarmed women, dressed in pyjamas, gathered against a wall of the shelter. An armed Israeli soldier in camouflage can be seen at the other side of the shelter seemingly guarding one of its entrances. The women in the video appear to be frightened as sounds of detonations and shooting can be heard outside the shelter. The video ends with a loud explosion and the soldier at the exit is seen looking at his phone. According to the survivor’s testimony, the soldier received a phone call informing him of the infiltration and left the shelter to take action. The Commission assesses that this video was filmed immediately before militants breached the outpost and that the shooting sounds came from fighting around the perimeter walls.

109. At 07:20, five armed members of the Israeli Army’s Sky Riders unit were tasked to safeguard both entrances of the shelter and the unarmed surveillance soldiers inside it. In a photograph that Captain Eden Nimri, a commander of the Sky Riders unit, sent to her parents, two of Nimri’s subordinates can be seen aiming their weapons at the entrances of the shelter. The shelter was attacked by militants at 07:45, when a Hamas military wing operative, wearing a distinctive green headband and armed with an AK-47, entered. The militant was immediately shot dead by Nimri and her team members. Other militants then threw three grenades into the shelter and engaged in a shootout with Nimri.

110. Covered by Nimri, the other four members of the Sky Riders and six of the surveillance soldiers escaped through the back entrance of the shelter. Nimri, who remained behind, was killed shortly afterwards in the shelter. The ten women who escaped the shelter managed to reach two rooms in the living quarters, where they locked themselves in. The militants, who were already controlling the living quarters, attempted to break into the two rooms several times but, having failed to do so, eventually left. The 10 women spent six hours in the rooms before they were rescued.

111. The Commission found that at least three more female soldiers managed to escape from the shelter during the shootout. All three were later killed by the militants while hiding in other locations of the base. The other women, who did not manage to escape from the shelter, possibly 13 in number, were either killed or abducted.

112. At about 12:00, militants threw several grenades containing a flammable substance at the entrance of the command centre, setting the building on fire. A Golani

⁵⁰ <https://www.idf.il/%D7%90%D7%AA%D7%A8%D7%99-%D7%99%D7%97%D7%99%D7%93%D7%95%D7%AA/%D7%99%D7%95%D7%9E%D7%9F-%D7%94%D7%9E%D7%9C%D7%97%D7%9E%D7%94/%D7%9B%D7%9C-%D7%94%D7%9B%D7%AA%D7%91%D7%95%D7%AA/%D7%94%D7%A4%D7%A6%D7%95%D7%AA/%D7%AA%D7%A6%D7%A4%D7%99%D7%AA%D7%A0%D7%99%D7%AA-%D7%96%D7%99%D7%94%D7%95%D7%99-%D7%9E%D7%97%D7%91%D7%9C%D7%99%D7%9D-%D7%A1%D7%99%D7%9B%D7%95%D7%9C-%D7%AA%D7%99%D7%A2%D7%95%D7%93/>.

Brigades soldier tried to extinguish the fire but was unsuccessful. The fire spread quickly and smoke started to penetrate into the command centre. At around 12:30, the soldiers inside the room started searching for a way out but the door of the emergency exit was on fire and could not be approached. Eventually, the soldiers found a small window in the bathroom which was smashed by the operations officer of Golani Brigades, allowing her, five other Golani officers and one surveillance soldier to escape outside and hide in another building. Fifteen soldiers who were unable to escape from the command centre room died from smoke inhalation and fire. According to an Israeli Security Forces interim investigation into the attack on Nahal Oz military base, the grenades thrown in the command centre released unspecified toxic gas that caused suffocation and loss of consciousness within minutes.

Killing of soldiers who were *hors de combat*

113. The Commission analysed digital footage indicating that the majority of the female soldiers seeking refuge at the shelter of the Nahal Oz outpost were unarmed and wearing civilian clothes during the attack. Militants filmed the killing or abduction of several female soldiers, most of whom were young women (around 19 years old) and who were unarmed, wounded, captured and/or showing signs of having surrendered.

114. In addition, the Commission viewed two videos filmed in what appears to be an office of the Nahal Oz outpost during the attack. The Commission assesses that both videos were recovered from body cameras of Palestinian militants. The first video shows three armed militants, including one identified as a member of Hamas military wing, entering the room. A woman in white pyjamas can be seen hiding under a desk. She appears to have been wounded and there appears to be a blood stain on the front of her trousers in the lower abdominal area. The militants are heard discussing in Arabic the number and the whereabouts of other female soldiers in the room. They count three women. One of the militants then moves a chair that seemingly blocks their access to the table and the gunman beside the cameraman shoots three times at the unarmed woman hiding under the desk. The video then ends.

115. In the second video, which appears to be a direct continuation of the first video and to have been filmed immediately after the first video, six more rounds can be heard in the room. One of the women then starts screaming and another gunshot can be heard, at which the screaming ends abruptly. The camera then moves down and the woman in white pyjamas from the first video can be seen under the desk, seemingly dead. Another body in military boots and camouflage can be seen lying beside her. One of the militants then says, “There is a fourth one that we did not kill”, and the video ends.

H. Torture and mistreatment of victims, including mistreatment of bodies

116. The Commission found significant evidence that members of armed groups severely tortured and mistreated victims in several locations. The Commission documented images, videos and information from victim and witness testimonies. The Commission also documented testimonies of first responders who assessed the status of bodies found in different locations, as well as bodies brought to a central sorting and identification camp named Camp Shura. The Commission concludes that acts of torture and mistreatment were widespread.

117. In most instances, the Commission could not conclusively determine whether victims were subjected to mistreatment before or after death. Additionally, several cases documented by the Commission could not be attributed to a specific location, since bodies had been removed from the scene of the crime and images of bodies were released centrally by Israeli authorities. Unfortunately, there appears to have

been little or no thorough forensic examination of bodies undertaken by the Israeli authorities.

118. The Commission has documented evidence suggesting that some victims were subjected to decapitation and attempted decapitation. The Commission verified one such incident from kibbutz Nir Oz. A video viewed and verified by the Commission shows two attackers, dressed in civilian clothing and speaking in Arabic, physically abusing a victim who is lying on the floor with his eyes closed but who is still visibly alive. The Commission determined that the victim was a Thai national residing and working in Nir Oz. The victim's shirt and right arm are covered with blood, likely from an abdominal wound. The video shows the attackers hitting the victim with a knife on his left shoulder. A few seconds later one of the attackers kicks the victim in the head and the victim tries to cover his head. One attacker then picks up a garden hoe and hits the victim's neck. A few seconds later, another attacker picks up the hoe and repeatedly hits the victim's upper neck, body and right arm. One of the perpetrators repeatedly asks for a knife and screams "God is great". The video is cut at this point. Based on the available evidence the Commission concludes that this attack was committed by armed Palestinians in civilian clothes, likely belonging to the group who joined the attack on Nir Oz later in the morning.⁵¹ The Commission could not conclude definitely which armed group committed the acts, or whether they were committed by civilians from Gaza directly participating in hostilities.

119. The Commission analysed digital materials released by Hamas military wing and Palestinian Islamic Jihad and found evidence indicating that at least three Israeli soldiers were decapitated in Israeli military bases on 7 October.

120. In the first case, the Commission viewed a video released by Hamas military wing on 7 October and geolocated it to the Nahal Oz military outpost. The video shows two bodies of Israeli soldiers. One body of an officer of lieutenant rank is seen lying on his back and appears to be intact, with the exception of some fingers of his left hand that appear to have been partially or fully severed. The video shows a man in civilian clothes standing upon the body with a knife. In a photograph published by Hamas, which was also geolocated by the Commission to the Nahal Oz military outpost, the same soldier is lying in the same position and appears to have been decapitated. Based on the analysis of the video and the image, the Commission concludes that in this case the soldier was decapitated after death. The second body appeared to be intact. Given that the video and picture were published by Hamas military wing, the Commission concludes that Hamas military wing was responsible for these acts.

121. In the second case, the Commission analysed another video filmed by militants on 7 October, depicting the aftermath of an attack on an Israeli military base, which the Commission was not able to identify. Four male bodies are visible in the video and are positioned next to a low structure. One body is dressed in combat webbing and another is in civilian clothes. Two other bodies are seen lying nearby, both dressed in Israeli army uniform. Both bodies appear to have been decapitated. The video contained no additional information about the victims and the Commission could not determine whether the acts were committed before or after death. The Commission could not conclude definitely which armed group committed the acts, or whether they were committed by civilians directly participating in hostilities.

122. In another video published on social media following 7 October, two masked men with Palestinian Islamic Jihad insignia are seen holding the severed head of a man. The video contains no additional information about the victim and the Commission could not determine whether the man was beheaded before or after death.

⁵¹ See para 197 above.

123. The Commission documented digital evidence of burnt bodies in several locations. According to some reports, the perpetrators used an accelerating agent which created very high temperatures and caused extensive damage to bodies. The Commission was unable to determine whether the victims had been burnt alive or their bodies burned after death.

124. Bodies of women were found in several locations completely or partially burnt. Some of the bodies were burned beyond recognition and/or decapitated. The Commission reviewed photos of the burnt skull of a decapitated woman found in Kfar Aza. The Commission also reviewed photos of a 12-year-old girl who was shot in the head and then decapitated.

125. The Commission found evidence that body parts were severed by militants in at least two locations, Nahal Oz outpost (see case noted in para 126 above) and kibbutz Be'eri. In kibbutz Be'eri, 80-year-old Albert Miles told his daughter in a phone call during the attack that militants had severed the fingers on his left hand. He was later shot and killed by militants.

126. A first responder, working at a central identification centre for victims of 7 October, told the Commission that containers with "special bodies" were received at the centre. He explained that these bodies included the bodies of children with severed body parts. The centre also reportedly received bags of severed body parts.

127. In October 2023, forensic pathologists from the Israel's National Center of Forensic Medicine released three photos of victims' bodies, stating they had been decapitated, with most of them burned beyond recognition.

128. Images and CT scans of victims' bodies, published by the Israel's National Center of Forensic Medicine, revealed indications of torture and extreme forms of physical abuse, including burning alive. In an interview with The Media Line on 6 November 2023, the head of the Center, Dr. Chen Kugel, shared the details of the victims' autopsies: "The proportion of bodies we have received who are charred is high ... Many have gunshot wounds in their hands, showing they put their hands up to their faces in defence. Many were burned alive in their homes ... We know they were burned alive because there is soot in their trachea, their throats—meaning they were still breathing when set on fire."

129. The Commission independently verified two images presented by the Center. One image of a CT scan displays charred remains of two spinal cords and two rib cages belonging to an adult and a child who were bound together with iron wire and burnt. An independent evaluation of the CT scan by a forensic pathologist confirmed the presence of the comingled human remains with metallic elements surrounding them and multiple fractures visible to the bones. The Commission could not ascertain whether the bodies were burned prior to death.

130. Another image depicts the body of an Israeli man, displaying signs of trauma. An independent evaluation by a forensic pathologist confirmed that the body in question exhibits signs of ill-treatment before death, including multiple blunt force trauma and burn marks on the forehead, nose and the left shoulder, suggestive of burning by pressing a hot oval object to the victim's skin. The Commission verified a video from kibbutz Be'eri of two victims who had been burned in their car parked in the kibbutz. An independent evaluation of the images by a forensic pathologist concluded that the bodies of the victims were burned after death.

131. Messages sent by victims and witnesses of the attack on kibbutz Nir Oz indicate that some of those killed were also subjected to extremely cruel forms of physical abuse. This includes instances in which people sent messages saying they were being burned alive, that their houses were set on fire by the attackers and they feared suffocation from the smoke.

132. The Commission also verified information on mistreatment and abuse of hostages held in Gaza. It will report on these cases in its report to the General Assembly later this year.

I. Gender-based violence

Introduction and overview

133. The following section includes crimes that have gender elements, whether in terms of motive, form, implementation or impact on the victim. It includes acts of violence and harms directed at those with an inferior place in the gender hierarchy, and as such reflects an abuse of power by the male perpetrator and a disregard for the special considerations that woman have in international law.

134. The Commission documented evidence of sexual violence⁵² in several locations in southern Israel on 7 October.⁵³ This evidence includes testimonies from credible witnesses and images of victims' bodies displaying indications of some form of sexual violence. The Commission identified a pattern of sexual violence that has been corroborated by the digital evidence it collected and preserved.

135. Reliable witness accounts obtained by the Commission describe bodies that had been undressed, in some incidents with exposed genitals, as well as other indications of abuse, such as their hands and/or feet being tied, indicating they had been detained before their deaths, the position of the body, for example with legs spread or bent over, and signs of struggle or violence on the body, such as stab wounds, burns, lacerations and abrasions. The patterns in these witness accounts are consistent with digital footage collected and preserved by the Commission, including four victims found undressed from the waist down, as well as four cases where the bodies of victims were displayed partially undressed while being mistreated.

136. Further corroborating its findings, the Commission also received reports that many bodies taken to the Shura camp showed signs indicative of sexual violence. Some bodies were completely or partially undressed with signs of considerable violence and struggle. One witness described to the Commission receiving a body of a girl around 13 years old who was naked with signs of violence to the stomach and broken legs.

137. Bodies of women were found completely or partially burnt in several locations. One witness told the Commission that many bodies of men and women received at Shura were burnt in the genital area. In some cases, there were indications that gasoline had been used to set genitals on fire. In one case the Commission obtained video footage of the body of a woman who was set on fire with gasoline from the waist down. The Commission could not determine in these cases whether the fire was ignited before or after death. Some of the bodies were burned beyond recognition and/or decapitated.

138. The Commission has identified a pattern of sexual violence in the attacks on 7 October. In relation to rape, the Commission has seen open-source reports stating that Israeli civilians were subjected to rape and other forms of sexual violence at various sites in southern Israel on 7 October. The Commission has reviewed testimonies obtained by journalists and the Israeli police concerning rape but has not been able to independently verify such allegations, due to a lack of access to victims, witnesses and crime sites and the obstruction of its investigations by the Israeli authorities. The Commission was unable to review the unedited version of such testimonies. For the same reasons, the Commission was also unable to verify reports of sexualized torture and genital mutilation. Additionally, the Commission found some specific allegations to be false, inaccurate or contradictory with other evidence or statements and discounted these from its assessment.

139. The Commission has viewed reports asserting that documents found on militants who were killed or arrested contain alleged instructions to undress civilians and/or

⁵² The Commission considers the term 'sexual violence' to cover a range of physical and non-physical acts of a sexual nature against a person or causing a person to engage in such an act, by force, or by threat of force or coercion.

⁵³ The indicators considered by the Commission are referenced in section II on methodology.

commit rape or other forms of sexual violence during the attack on 7 October. The Commission was unable to obtain copies of these documents and was unable to verify their authenticity.

140. The Special Representative of the Secretary-General (SRSG) on Sexual Violence in Conflict, Pramila Patten, found after a mission to Israel in January to February 2024 reasonable grounds to believe that conflict-related sexual violence occurred at several locations, including in the form of rape and gang rape. The SRSG also found credible circumstantial information indicative of some forms of sexual violence, including genital mutilation, sexualized torture, or cruel, inhuman and degrading treatment. The SRSG noted that the specific attribution of these violations would require a fully-fledged investigation and recommended that the Israeli authorities grant access to the Office of the High Commissioner for Human Rights and the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel. The Israeli Government has refused to permit access by the Office or the Commission.

Gender-based violence in kibbutzim and on road 232

141. The Commission documented cases indicative of sexual violence perpetrated against women and men in several kibbutzim, including in Kfar Aza, Re'im and Nir Oz. Witnesses described seeing corpses with signs of sexual violence in Kfar Aza. One witness described finding the bodies of two deceased women in a safe room in Kfar Aza. One of the women, who was in her early twenties, had suffered fatal gunshot wounds to her head. She was positioned lying face down on a bed, naked from the waist down, with her knees on the floor and her upper body bent over the bed. The witness described a lot of blood around the body and signs of a struggle.

142. The Commission reviewed footage that it could not verify of a naked decomposed body found under a collapsed house in one of the kibbutzim. According to an independent evaluation carried out by a forensic pathologist, the evidence suggests that a pair of scissors was inserted in the groin area after death.

143. The Commission reviewed and verified video footage of a corpse of a woman found outside Kfar Aza on road 232, displaying signs indicative of sexual violence. The woman's clothing was pulled up, her legs were spread apart, her underwear was missing and her genitals were exposed. According to an independent evaluation carried out by a forensic pathologist, the woman had burns covering at least 45 percent of her total body surface, along with a fourth-degree burn on the left side of the head. The expert assessed that the burns were most likely due to a fire ignited by the perpetrators using an accelerant. The woman had a cut on the right mid-thigh, possibly occurring either shortly before or after death. According to the pathologist, the body showed signs of having been moved from its original position.

144. The Commission also documented an image of a body found on road 232 whose trousers and underwear were pulled down to just above the knees. The Commission could not determine if there had been any violence to the genital area but could identify blood on his clothes on the right chest area and face. One witness also described to the Commission finding the body of a woman in her twenties close to road 232. The woman had likely tried to escape from the Nova festival in Re'im. The woman had been undressed from the waist down, with her genitals exposed and bearing blood marks on her genitals. Some of the woman's clothing was seen next to the body and the witness stated that gunshot wounds entering from the back were observed.

145. Most of the 90 women and girls abducted to Gaza on 7 October were from the kibbutzim in southern Israel. The Commission found that several of them were subjected to physical and psychological violence in the process of their abduction. The Commission received many reports and verified digital evidence that hands and sometimes feet of women were bound, often behind the victims' backs, during the abduction or prior to their killing. The perpetrators mainly used plastic zippers, but

the use of rope and electric cables has also been documented by the National Center of Forensic Medicine.

146. The Commission viewed CCTV footage of a woman being abducted by eight men in Kfar Aza at approximately 11:00 on 7 October. Two of the men were armed and in military uniform and the others were in civilian clothing. The footage shows the men carrying and dragging the woman against her will while she continuously struggles to get free. One attacker is carrying a white sheet that he is trying to place on the woman. At one point she falls on the ground and a man in military uniform slaps her in the face. The woman was later taken to Gaza where she was held captive for almost two months. She described after her release how she was beaten badly when she tried to escape her abductors and that her feet and hands were eventually tied when she was brought to Gaza. She also described feeling that she was being treated like an object during her abduction. The Commission considers that this violence by eight men, some armed, on a woman was inherently threatening and degrading and denied the woman the protection to which she was entitled under international law. The Commission considers she was subjected to gender-based violence.

147. The Commission is aware of many cases in which women were intentionally killed by militants during their abduction or while trying to escape and has investigated three such cases. The Commission reviewed CCTV footage from kibbutz Mefalsim depicting a woman being dragged by an armed militant towards a white pickup at 08:00. The footage shows that the woman was shot in the back when she tried to run from her attackers. The Commission assesses that in this case militants may have been trying to abduct the victim to Gaza but they decided to shoot and kill her as she resisted.⁵⁴ In the second case, CCTV footage shows a Hamas militant wearing a distinctive green headband, armed with AK-47, chasing and shooting at several people just outside the main gate of kibbutz Alumim at approximately 07:00. The video shows the perpetrator reaching one of the women, grabbing her and, when she tries to escape, shooting her at close range. A second woman then kneels on the ground and bends her head, seemingly in submission. The militant fires above her head, apparently aiming at the others who had escaped. He waits a few seconds before shooting and killing the woman from close range, while she is still kneeling.

148. The Commission also found that bodies of civilian victims killed in kibbutzim and the Nova festival were used as trophies of victory for propaganda purposes, often with a clear gender element to the display.⁵⁵ Militants posed with bodies in videos and photos, violating the personal dignity of the dead persons by humiliating or degrading treatment. In several of these cases there was a clear gendered element to the crime, where the bodies were displayed undressed as a means of humiliation and disrespect, while these acts were filmed and disseminated.

149. The Commission documented and verified digital evidence of two women who were killed in the kibbutzim and whose bodies were displayed online while male perpetrators are seen taking selfies with the women's bodies. In one of the cases, the perpetrator is seen desecrating the body of the woman, stepping on the victim's head while stating "God is great". The Commission also documented a case where the body of a partially undressed man wearing boxers is seen disrespected once brought to Gaza, with a mob kicking and hitting the lifeless body lying on the ground.

150. In another case the perpetrators published videos of a victim's execution and the mistreatment of his body in the vicinity of kibbutz Nahal Oz. In the first video the man is seen with blood on his face, being beaten and abused by seven men. In the video all of the attackers are speaking Arabic and several are dressed in civilian

⁵⁴ The Commission documented a similar case in Be'eri where women were executed prior to their abduction into Gaza, see section 42 on Be'eri.

⁵⁵ See more in para 156 below.

clothes while others are wearing military uniforms. In another video, five of the seven men are seen armed with automatic rifles and one of the attackers in civilian clothes can be seen holding a bloody knife and making threatening gestures towards the victim's body which is lying on the ground. The victim's body is now undressed on the top and a stab wound to the chest is visible. A man wearing a military uniform is standing on the victim's face and another man dressed in a military uniform shoots about nine rounds at the upper part of the body and screams "God is great" which can also be heard in the background of the video.

151. The victim's mutilated body is also seen in a third video, which was published on the official Telegram group of Al-Aqsa Martyrs' Brigades. In this third video one of the perpetrators is clearly seen wearing a yellow headband associated with the Al-Aqsa Martyrs' Brigades, while standing on the victim's face. This third video appears to have been filmed after the previous two. The victim is lying on his stomach and appears to have been almost completely undressed; his jeans have been pulled down and there is partial tearing of his underwear. According to an independent evaluation carried out by a forensic pathologist, multiple scratches on the victim's back suggest movement of the skin against a rough surface before or around the time of death. There are wounds on the right gluteal area, which are most likely from a gunshot wound, and the body has multiple cut and stab wounds, as well as gunshot wounds to the lower legs which appear to have been broken, all consistent with trauma after or around the time of death. There are also signs suggestive of a fracture of the pelvic bone or hip. In a fourth video verified by the Commission, the body of the victim is being transferred in a truck, with men in the background screaming in Arabic, "Here's the dog. Here's the dog. Here's the Jew." As of May 2024, the body is most likely still being held in Gaza.

Gender-based violence at the Nova Festival

152. The Commission documented five cases at the Nova festival where the bodies of victims showed signs of some form of sexual violence. In all cases, the victims had been partially undressed. These bodies were found in and around the festival site or on locations leading to or from the festival.

153. One witness, who arrived shortly after the attack, described to the Commission seeing the bodies of three women, located at the eastern and western parking areas, bearing signs indicative of some form of sexual violence. All three women had been completely undressed from the waist down and two were positioned with the legs spread apart. According to the witnesses, two of the bodies displayed signs of considerable violence. One of the women had multiple gunshot wounds to her thighs and legs. The other woman had been burnt in the face, according to the witness likely as a result of a liquid accelerant having been applied. The Commission reviewed video and photo evidence from the Nova site which corroborated the witness's statements. The digital evidence shows the bodies of women found partially undressed and with signs of considerable violence.

154. The Commission also documented the statement of a witness who described seeing the body of a man with signs of rape. According to the witness, the victim was in his twenties and had multiple gunshot wounds to his head and back. The victim was found with his trousers pulled down, his underwear ripped and a gun inserted into his anus. The Commission found the testimony credible but was not able to corroborate the information.

155. At least nine women were reportedly abducted at the Nova site and at least one body of a female victim was taken to Gaza. The testimonies and video footage reviewed by the Commission concerning the abduction of women show a distinct gendered element in the form, implementation and impact of the abduction of these women.

156. In several cases of abduction at Nova, the women, or their dead bodies, were used as victory trophies by male perpetrators. The abduction, violence and humiliation of the women were put on public display, either on the streets of Gaza and/or by recording them and publishing the videos online. Recording was carried out either by the

perpetrators themselves or by bystanders. This type of gender-based crime was identified by the Commission in many locations in the south of Israel and in Gaza, women being the primary but not the only target.⁵⁶

157. In one case, the body of a mutilated and undressed civilian woman in her twenties was paraded in the back of a truck in Gaza through a cheering crowd, while spat at by bystanders. In the video three militants are seen sitting with the body, one cradling the body while another is holding her by the hair in a gesture of triumph. The men in the truck are wearing identical olive green uniforms with one holding a rocket propelled grenade weapon. The victim, who has minimal clothing, has her right breast partially exposed in some of the footage reviewed by the Commission. According to an independent evaluation by a forensic pathologist, the body displayed signs of an injury to the scalp at the back of the head and fractures on the legs and the right arm, most likely inflicted after death. Reports received by the Commission indicate that the woman was killed at the festival and her body later brought to Gaza by militants.

158. The Commission also documented a case in which a man, most likely deceased, was dragged on the ground by two men in military uniform on a motorbike. The man is seen with his trousers pulled down to his ankles and only wearing underwear, his feet and lower body dragged on the ground through Gaza.

159. In another case members of armed groups published a video online showing a woman being humiliated and degraded by many male perpetrators during the process of her abduction from the Nova festival site to Gaza. The perpetrators are seen taking advantage of the coercive environment. The woman is filmed while surrounded and taunted by the male perpetrators who subjected her to degrading language, including referring to her as a Jewish female dog. She also received threats to her person while in this vulnerable and exposed position. The woman was later abducted to Gaza and held captive for more than 50 days. Following her release, she described how she was treated by her captors: "I was a trophy. They [abductors] brought people from outside so they could look at me."

160. The abduction of several women was filmed, the women being seen placed on the back of trucks, on motorbikes and other vehicles and brought to Gaza, acts committed with force, threat of force or the fear of violence. The Commission reviewed video footage of the abduction of several women to Gaza on motorbikes and other vehicles. The abductees were forced to sit very close to their abductors and filmed during their abduction; in some cases the women were placed between two men on a small motorbike, forcing them to coerced intimacy with their abductors. The Commission found that women were disproportionately affected by this type of gender-based crime and documented multiple cases with the same pattern, from both kibbutzim and the Nova festival. In a video viewed by the Commission, a woman is abducted by two men in civilian clothes. The woman is seen trying to move her head and one of the perpetrators forcibly turns her head in his direction. In another case a woman at the Nova festival was abducted by force on a small motorbike by two men in civilian clothes. She is seen struggling to get free from the perpetrators and pleading for her release. In another video, the man behind her is seen covering her face with a black piece of cloth while almost sitting on top of her, and she is heard crying out loud in fear and anguish.

161. The Commission documented that the perpetrators used white sheets and blankets to wrap or cover female victims in several cases. The use of sheets was documented during the process of abduction in four cases and in one case of a woman killed at the Nahal Oz outpost. The Commission notes that these sheets were used to help facilitate the abduction of women. In one case a woman was wrapped tightly in a white sheet from head to toe by her abductors, not being able to see or move, and placed in a cart with three male abductors to be taken to Gaza.

⁵⁶ See also section on sexual and gender-based violence in the Kibbutzim.

Gender-based violence in the Nahal Oz outpost

162. The Commission documented and verified information and digital footage of sexual and gender-based violence against female soldiers in the Nahal Oz outpost. According to the information reviewed by the Commission, several female soldiers were killed while unarmed and hiding from the perpetrators, while others were subjected to physical violence once captured and taken to Gaza as hostages. The Commission notes the inherently unequal circumstances of these soldiers in age, sex and combat capacity. In a video reviewed by the Commission, the female soldiers can be seen unarmed while hiding in a shelter at the outpost at the time of the attack.

163. Most female soldiers at the outpost were either killed or abducted. Seven were taken to Gaza. In the film “Scenes of the Al-Qassam Brigades storming the Nahal Oz military site” released by Hamas on 10 October 2023, the seven abducted female soldiers can be seen lined up, sitting facing a wall, hands tied behind their backs, guarded by six male Palestinian militants. Several of the women were taken from the shelter, indicating that they had surrendered. In video footage reviewed by the Commission the young women are seen unarmed and distressed, hiding in the shelter from the attackers. Other footage reviewed by the Commission shows that these women were subjected to physical and psychological violence prior to being taken to Gaza. Several of the women lined up by the wall are filmed with their hands tied behind their back and with visible injuries to the face, arms, knees, ankles, feet and/or hands. In video footage reviewed by the Commission the militants threatened and insulted the women while tied and lined up by the wall. One militant also stated “You are beautiful”.

164. The Commission reviewed other digital footage of the abducted women that showed clear signs of abuse. One woman is seen being pulled out of the back of a truck by an armed militant in Gaza. She is barefoot, her hands are tied and she has multiple injuries including a wound on her temple and injuries or blood marks on her hands, wrists, feet and knees. The woman has what appears to be a large blood stain on her trousers around the genital and gluteal area. Another woman, who was later abducted to Gaza, can be seen in video footage with blood traces and injuries to her face, while her upper body is covered with a white sheet.

165. The Commission also documented information indicating that women at the outpost were subjected to sexual violence. This includes bodies being found undressed and isolated in separate rooms, showing signs of physical abuse and sexual violence. In one testimony, a witness who arrived at the site after the attack told the Commission that he saw bodies of women who seemingly had been hiding under tables, in the showers and under the beds. Among them, the witness saw bodies of two partially undressed women that had seemingly been isolated in separate rooms. Both had their pyjama trousers pulled down to the knees. According to the witness, the women had been shot. The witness said that it was clear that the victims had been abused: “The women were brutalized, and it was clear what had happened. They were isolated, stripped and in positions of surrender when we found them.”

166. The Commission reviewed and verified digital footage of two female bodies that were partially undressed. A video published by Hamas titled “Scenes of the Al-Qassam Brigades storming the Nahal Oz military site” contained one scene depicting armed militants in the shelter after its capture. The scene shows six militants with blurred faces standing beside the same wall where a large group of women was seen hiding in another video viewed by the Commission. Four bodies are shown lying on the floor of the shelter. One female body is partially blurred and appears to have been covered with a piece of white sheet. Despite the blurring, the lower part of the body appears to be undressed, but the Commission could not conclude whether the underwear was removed or not. In another video, the militants can be seen screaming “God is great” while standing over the same woman.

167. The Commission reviewed a video published by Al-Quds Brigades of the Palestinian Islamic Jihad titled “Al-Quds Brigades show scenes of the moment the Nahal Oz military site was seized east of Gaza as part of the battle Al-Aqsa Flood”.

The video depicts two blurred female bodies lying on the floor at the entrance to the women's living quarters. A closeup frame shows that one body is lying on the back with legs spread apart, and the lower part of the body appears to be undressed. However, due to the blurring, the Commission could not conclude whether underwear had been removed. A second female body is seen in the same video lying outside the living quarters' entrance, in close proximity to the first body. The image is blurred but it is clear that the female victim is positioned lying on her back with the lower part of the body burning, with flames visible through the blurring. A blood stain is visible under the head. A trace of liquid near the body indicates that the perpetrators might have used gasoline to ignite it.

J. Attacks and impact on children

168. According to Israeli sources, 40 Israeli children (including at least 23 boys and 15 girls) were killed and hundreds more were wounded during the 7 October attack on Israel. Of the children killed, three were under three years old; four were between the ages of three and six; 10 were between the ages of six and 14 and 21 were between the ages of 14-18.⁵⁷ Children were killed in civilian villages and towns, particularly in Be'eri, Nir Oz, Zikim beach and Kfar Aza. In several cases children were subjected to witnessing the killing of their family members. Thirty-six children (14 boys and 22 girls) were abducted to Gaza, 10 of whom were abducted alone, without parents or other family members. Thirty-four of them were released in November 2023. Twenty children lost both their parents on 7 October and 96 children lost one parent.

169. In its investigation, the Commission focused on several egregious cases, including those in which entire families including children were killed, the killing of multiple generations including children, and cases where children were separated from their families. In one case investigated by the Commission, militants used an Israeli boy to lure his neighbours to open their houses. The boy was later killed.⁵⁸

170. The Commission notes that the harm inflicted on children extended far beyond the day of the attack itself and beyond those harmed directly. Children who were evacuated from the Israeli border area near Gaza have spent months in temporary housing and hotels, away from their communities, schools and support systems. Additionally, child survivors and other children and teenagers in Israel and elsewhere have been reportedly exposed to videos of the acts committed on 7 October which were readily available online. On 9 November 2023, the Israeli Department for the Protection of Children on the Internet, part of the Department for National Security, issued a statement to the public, calling on families to restrict children's access to the internet and providing guidelines on how to speak to children who have seen the footage.⁵⁹

171. An Israeli psychologist, Dr. Yuval Sa'ar-Himan, from the Department of Social Work at Ben Gurion University, summarised the post 7 October situation for surviving children, noting: "There is a horror here like no other. In Otef Aza everyone was helpless. The children experienced their parents as unable to protect them. It's a unique trauma in its intensity." A survey by Goshen Association in December 2023 found that 83 percent of all children in Israel and 93 percent of children who were evacuated from their homes were suffering from mental and other distress after 7 October.

Killing and maiming

172. Six members of three generations of the Israeli-American Siman Tov family were killed by militants during the attack on kibbutz Nir Oz, including three children: six-

⁵⁷ <https://www.gov.il/en/departments/news/swords-of-iron-war-in-the-south-7-oct-2023>.

⁵⁸ See paras 181-187 below.

⁵⁹ https://www.gov.il/he/departments/news/warning_105.

year-old twin daughters, Shahar and Arbel, and four-year-old boy, Omer. Parents Yonatan and Tamar were hiding with their three children in the shelter in their home in the early hours of 7 October. At 09:47, Tamar reportedly wrote in the WhatsApp group of Nir Oz mothers: "I've been shot. I'm wounded." This was the last message received from her. Later at an unidentified time, Yonatan texted to his sister saying: "They're here. They're burning us. We're suffocating." Reports indicate that the militants had shot through the door of the safe room and then set the house on fire. Both Tamar and Yonatan sustained gunshot wounds and died from the loss of blood, while their three children suffocated to death from the smoke. Yonatan's mother, Carol Siman Tov, was shot to death in her own safe room in a different house in the kibbutz. It reportedly took Israeli authorities a week and a half to identify the bodies of the children.

173. Three siblings from kibbutz Kfar Aza survived the attack and witnessed their parents being murdered by militants, leading the two eldest children to hide in a closet for 14 hours while the youngest child, just three years old at the time, was abducted to Gaza. During the early morning hours of 7 October, father Roy Idan, a photographer for the Israeli media publication Ynet, left his home to go to the outskirts of the kibbutz where he photographed Hamas hang-glanders entering Israel and landing near the kibbutz. Roy returned home, reportedly after being notified that his wife Smadar had been shot, and he was met by his three children outside the home. He picked up his youngest daughter in his arms. Moments later, he was shot and killed and his daughter fell to the ground. Smadar's sister stated in a media interview that at this point, one of the militants signaled to the children to run away. Immediately after, the two oldest children ran back inside the home to hide in the safe room, sure that their little sister was also dead. At the same time, the three-year-old girl extracted herself from under her father's body and ran across the kibbutz to find refuge.

174. The two older siblings hid in a closet and waited 14 hours in the dark safe room, without food and water, until they were found and rescued by Israeli Security Forces. Their mother's body was in the same safe room. The children are heard in a recording released by Israeli Security Forces telling the forces "They killed our mummy and daddy", as they are evacuated. Their three-year-old sister had run to a neighbouring house and was abducted to Gaza with another family. She was released in November 2023 as part of the hostage release agreement.

175. Two members of the Bachar family in Be'eri, mother Dana Bachar and her 15-year-old son Carmel Bachar, were killed by militants during the attack. The father and 13-year-old daughter survived the attack. According to the father's testimony, the family entered their safe room shortly after hearing the rocket siren begin. When militants entered the home and started shooting at the safe-room's door, father and son held the door shut from the other side. After a short while, the militants shot a round at the door with automatic weapons and Carmel's hands were blown off. Militants told the father again and again to open the door and he said, "It's all children here - go away".

176. The father was then hit by gunfire himself and sustained wounds in both legs and his arm. After that, heavy smoke started entering the room through the gunshot holes in the door and the family realised that militants had set their house on fire. The family then soaked towels in urine and held them to their faces so they could breathe through the smoke. Militants tried to shoot through the window and, following the use of an explosive device, managed to create a hole through which they threw in three grenades. Two grenades exploded and one did not. The 13-year-old daughter noted that, immediately after that, militants shot into the room with a Kalashnikov and one of the bullets hit her mother. For a while after that the three who had been shot went in and out of consciousness. At a certain point the daughter realised that her mother was not breathing anymore. Carmel died from blood-loss at around 17:00. In his last words to his father, he said that he wanted to be buried with his surfboard. Following Carmel's death, the father told his daughter, "leave him now, we focus on whoever is alive".

177. According to his testimony, Israeli tanks started arriving in the kibbutz at around 18:30 and shot at shelters to kill the militants hiding inside. The father stated that at 19:30 he heard Hebrew next to the window. A soldier from the Army's *Yahalom* unit

inserted his rifle through the window with a flashlight and said, “there was a massacre in this shelter”. The two surviving members of the family were then extracted and evacuated to the hospital, where one of the father’s legs was amputated.

178. In kibbutz Holit, two siblings aged four and four months respectively witnessed the murder of their mother, Adi Kaplon Vital, by Hamas militants. Adi’s surviving spouse, who was not at home at the time, stated in a media interview that Adi called him in the morning hours and asked for advice on how to use the M16 rifle that was locked in their safe. She reportedly then managed to use the rifle to kill one militant who had entered her home.

179. At some point during the attack, likely after Adi was killed, a militant, wearing a green band distinctive of al-Qassam Brigades, was filmed holding the children in his arms and saying, “look at the mercy in our hearts. Here are the children, we didn’t kill them.” The video was then uploaded on the official Hamas military wing telegram channel.

180. At 13:30 militants stormed the house of Adi’s neighbour, carrying the two children in their arms. The militants then took the neighbor with the children and started walking with them towards Gaza. One militant held one child and the neighbor held the other. Around one kilometre before a tunnel entrance, when the houses of Gaza were clearly visible, the militants let her and the children go, and she returned to Israel with the children. Adi’s body was found on 10 October under a blanket on a bed in the safe room Her body was reportedly booby trapped but the Commission has not been able to confirm this.

181. The Commission documented a case in which militants used an Israeli child to lure families out of their shelters. 17-year-old Tomer Arava, his mother Dikla Arava, Dikla’s partner Noam Elyakim and his two daughters aged 15 and eight years old were hiding in their shelter in their home in kibbutz Nahal Oz when militants entered the house on the morning of 7 October. The elder daughter stated in a media interview that her father Noam had told the three children to hide under the bed in one of the rooms and be quiet. Hamas militants then entered the house and started shooting and one bullet hit Noam’s leg. They then pulled the three children out from under the bed. Sometime between 10:00 and 10:30, Dikla’s relatives and friends started seeing a live broadcast feed on her facebook account filmed from inside the home.

182. The Commission viewed the 08:07 minute video which shows that at least four Hamas militants entered the home. All three children appear to be terrified throughout the video. At the start of the video, Noam has a visible gunshot wound to his leg. Hamas militants tell Noam, “Talk to your country, tell them we are in Nahal Oz. Tell them that the al-Qassam Brigades are here.” Noam then speaks to the camera, saying that he had been shot and that they were there with the girls. The militants then ask about the family car. One militant then says to another, “I am going to take the car so we can take them”.

183. In another shot, one Hamas military wing member states, “we will not hurt the child”. The militants then take Tomer out to use him to lure more families out of their safe rooms. They tell Dikla, “we will not shoot him”.

184. In a subsequent shot, Tomer is seen walking barefoot outside, surrounded by Hamas military wing members, one of whom says to him, “you are a child, not a baby”, signifying that the attackers clearly understood that Tomer was a child. Tomer is then seen yelling in Hebrew outside other kibbutz homes, “come out, come out” and “come out, they won’t shoot you”. Nothing more is seen of Tomer after this.

185. The sisters were abducted to Gaza and released in November 2023 under the hostage release agreement. At 11:45 on 7 October, a first photo of the two in Gaza was published online. The girls are seen sitting on a mattress, dressed in pyjamas, in what looks like a family home. The eldest sister stated in a media interview after she was released from captivity that, after Tomer was taken away, she was taken from the house with Dikla, Noam and her younger sister. The four were driven in the family’s car towards Gaza. At some point, the car was shot at by other militants who thought they were Israelis trying to escape. Dikla was hit from the shooting and died on the spot. The

militants then switched cars, placing her and her younger sister in another car and leaving Noam and the body of Dikla behind in the old car. She confirmed that, when they left the car, Noam was wounded but still alive.

186. In another video shot after the attack on the home and published on Telegram, Noam is seen limping barefoot near what appears to be a kibbutz cowshed. He is supported on each side by militants wearing combat vests.

187. Tomer, Dikla and Noam were killed that day, yet it took some time for the family to receive the notification. The family was notified on 15 October that Dikla had been killed and on 16 October that Tomer had been killed. The two were buried together. At the time of their funeral the family believed that Noam had been abducted and were only notified on 17 October that Noam had also been killed. The Commission could not confirm the circumstances in which Tomer and Noam were killed or any additional details on the state of their bodies and where they were found.

188. In all the cases investigated by the Commission, children were killed as part of the general attacks on communities, families and homes. The militants attacked with full knowledge that children were present and would be killed and injured, physically and psychologically. In at least one incident, a father told militants to stop the attack since there were children in the room and they proceeded anyway.⁶⁰ In other incidents, militants entered homes and proceeded with attacks although they knew children were present.

189. The Commission documented several statements by Hamas militants that they do not harm children, for example in the video of the young children in kibbutz Holit (see para 179 above), yet found that children were harmed and instrumentalized by members of the military wing of Hamas and other armed groups with the intent of achieving specific political or strategic gains. Although proportionally fewer children were killed on 7 October in comparison to other age groups (children represented approximately five percent of civilians killed), the Commission cannot conclude whether this was a result of a specific instruction or policy. Additionally, in the majority of cases where children were killed, the Commission could not definitively confirm whether they were killed by Hamas or another Palestinian armed group. In many cases documented by the Commission, children were removed from the protection and care of their parents and put in highly vulnerable situations with little ability to understand the situation or voice objection, including in situations where they were filmed for propaganda purposes.

K. Attacks and impact on older people

190. The Commission estimates that at least 130⁶¹ older people⁶² were killed in the 7 October attack on Israel.⁶³

191. One attack on older people took place at a bus-stop in Sderot, where militants killed 13 civilians, including eight persons over the age of 65, shortly after 06:53 on 7 October. According to information documented by the Commission, a group of retired older people from Ofakim, Netivot and Sderot were traveling to the Dead Sea when the driver of their minivan stopped at a bus-stop in front of the public library of Sderot to change a flat tyre shortly before 06:30. Images taken by members of the group before the attack, verified by the Commission, show them waiting next to the bus-stop. In one image, members of the group are seen looking up at the sky, while in another image one

⁶⁰ See para 175 above.

⁶¹ <https://www.gov.il/en/pages/swords-of-iron-civilian-casualties#>.

⁶² The Commission defines older people as those over the age of 65 in accordance with the definition used by the Special Rapporteur on the enjoyment of all human rights by older persons. See <https://www.ohchr.org/en/special-procedures/ie-older-persons/about-human-rights-older-persons>.

⁶³ This estimation is based on data from Nir Oz, Be'eri and Sderot. Official Israeli government data defines older people as those over the age of 80, and notes that "25 elderly civilians aged 80 and over were murdered". See <https://www.gov.il/en/departments/news/swords-of-iron-war-in-the-south-7-oct-2023>.

member of the group stands in front of a locked public shelter. According to the time stamp of the images, they were taken at 06:53, after the sirens and rocket attack had started. The group reportedly tried to access a public shelter next to the bus-stop but found that it was locked. Militants arrived at the location in pick-up trucks and shot and killed almost all members of the group. Only the driver of the minibus survived and one other person who had reportedly hitched a ride with the minibus earlier in the morning. Additionally, two children passing by were reportedly injured by bullets.

192. An eyewitness to the attack shared his account with Israeli media. The witness, a volunteer with the police, stated that he saw a group of older persons standing next to the bus-stop trying to enter the public shelter and calling for help. He tried to help them open the shelter but failed. He then saw a pick-up truck approaching, shooting in their direction. He started returning fire but noted that he only had 15 bullets in his gun and wanted to keep some bullets in case he was abducted and had to shoot himself. He then escaped the scene in order to hide. Another witness stated in video testimony to Israeli media that she saw the attack at the bus-stop with her son from the window of her house, situated opposite. They heard shooting and then people screaming for help. They went out and saw many bodies strewn on the pavement and the road. A third witness spoke to an Israeli news channel and stated that he saw the scene after the attack. He particularly recollected that many mobile phones were ringing in the background.

193. The Commission documented and verified several photos and videos of the aftermath of the attack. In the images, several bodies are seen lying on the footpath. In one photo the minibus is parked in front of the bus-stop and two bodies are visible in front of the minibus, lying on the ground. Another image shows at least three bodies in front of the locked shelter. Another short video shows four bodies on a patch of grass, at the side of the shelter.

194. The Commission found that older people constituted a large proportion of the victims of the attacks on kibbutzim Be'eri and Nir Oz. Of the 46 people killed in Nir Oz, 17 were over the age of 65, almost half of all civilians killed in the kibbutz. Additionally, 21 of the 72 hostages abducted from Nir Oz were people over the age of 65, one third of the hostages abducted from Nir Oz. Of the 105 people killed in Be'eri, 45 were over the age of 65, almost half of all the victims.⁶⁴

195. The Commission observes that the attacks on Israeli civilian villages and towns have a cascading effect on the mental and physical health of surviving older people. In February 2024, families from kibbutzim Nir Oz, Nirim, Nir Yitzhak and Magen shared with an Israeli news site the stories of elderly relatives who died soon after the 7 October attack, unable to cope with the destruction of their communities and their forced displacement, mourning for their killed friends and experiencing general trauma.

L. Killing, causing bodily harm, torture and abduction of foreign nationals in Israeli civilian communities

196. At least 68 foreign nationals were killed by armed groups and civilians from Gaza on 7 October 2023.⁶⁵ In Nir Oz, 19 Thai nationals, who were working for the agricultural team of the kibbutz, were living in the southern part of the kibbutz. Eleven of them were killed and five were abducted on 7 October. The Commission found that the Thai workers were attacked inside their living quarters and that most were killed in their rooms, while trying to hide from the attackers. The bodies of seven of the victims were filmed at 08:25 on the day of the attack. In the video, a voice speaking in Arabic can be heard, stating: "What an achievement! God is great. This is the path to Jerusalem." A different video of the same incident identified by the Commission in social media shows four Palestinian men dressed in civilian clothes, who are speaking Arabic, approaching the room with the bodies. When the

⁶⁴ <https://www.gov.il/en/departments/news/swords-of-iron-civilian-casualties>

⁶⁵ Ibid.

men enter the room, one of bodies on the floor appears to be moving and one of the attackers shoots at it from an automated rifle. The comments in Arabic and reactions overlaid on the footage indicate that the video was broadcast live on Facebook. The Commission analysed the footage and concludes on reasonable grounds that the victims were likely shot to death.

197. The Commission verified information indicating that at least one of the Thai workers in Nir Oz was subjected to an attempted decapitation as well as hacking upper body parts with a hoe while he was still alive.⁶⁶

198. In kibbutz Alumim, 19 Thai and Nepalese nationals were killed by militants on 7 October, out of 41 foreign workers and agricultural exchange students living in the kibbutz. According to available information, on hearing the siren, the Thai and Nepalese nationals hid in different parts of the kibbutz, including a shelter and a kitchen. Twelve persons were hiding in a shelter when members of armed groups attacked it with grenades and later with gunfire. The attack continued despite some of the victims crying that they are Nepalese. One survivor stated in a filmed media interview that he hid in a shelter with other Nepalese from the programme. After one and a half hours they heard someone calling them to come out. Two of the group left the shelter and were shot dead. Shortly after, militants threw two grenades inside the shelter. One grenade was thrown back out by a Nepalese student; the other exploded. According to a media report, quoting survivor testimonies, the surviving group, many of whom were injured, then left the shelter and hid in a storage room of a nearby kitchen, adjacent to the cafeteria. They hid there for several hours until around noon, when militants entered their hiding place. Survivors said that militants shot in all directions, hitting all seven people who were hiding. Several of the people were killed from the shooting; others were extracted and killed outside. Militants then entered and took the Nepalese student survivor noted above, as well as three Thai farmers, and abducted all four to Gaza. The Nepalese student was later seen in footage released by Israeli Security Forces on 22 November, taken from the security camera at Al-Shifa hospital in Gaza on 7 October. In the footage he is seen being pushed through the hospital corridors. A Thai student, also residing in Alumim, is also reportedly seen in the video lying on a stretcher.

199. A video, filmed by Israeli first responders and published on 9 October, shows 11 bodies in white body bags lying on the ground near the living quarters of the foreign workers in the kibbutz. As of May 2024, the Nepalese student is still being held captive in Gaza.

M. Israeli counter-offensive

General Information

200. Having examined the evidence of the events of 7 October, the Commission finds that Israeli Security Forces' response to the attack was significantly delayed and, in many places, inadequate. Small teams of Israeli ground forces appeared in several locations during the morning hours but they were slow to arrive, insufficient in numbers and lacked coordination with central command and with each other.⁶⁷ Several tanks were also active that day, both at border locations and in the civilian villages. In many kibbutzim, local rapid deployment security teams fought against the attackers, saving many lives, with very little or no external reinforcement.⁶⁸ In the Nova festival site, local police assigned to secure the festival conducted much of the fighting against militants, aided by intermittent independently-deployed Israeli Security Forces until the early afternoon when more reinforcements arrived. Although the situation differed between the various locations, in general the

⁶⁶ See para 118 above.

⁶⁷ See for example the situation in Be'eri, paras 212-215 below.

⁶⁸ For example in Zikim and Nir Oz. See paras 222 and 216-217 below.

Commission observes that in most locations more significant and organized Israeli Security Forces only arrived in the early afternoon.⁶⁹

201. The Commission found that Israeli Security Forces based in outposts around Otef Aza were forced to defend their positions and engage in battles in the military bases which were also attacked and were not able to deploy to the civilian villages to provide assistance. In some cases, the absence of deployment to the civilian villages was due to lack of knowledge of the various attack sites given the poor communications and, due to this lack of communications, a belief of each Army team that they were the only ones under attack. One commander, a major in Israeli Security Forces' 77th Armoured Corps Battalion, spoke about the Armoured Corps' situation that day: "Each individual tank does not understand that there is a situation in the whole area. It also does not understand why nobody is coming to help and there is no liaising factor that says go here or go there. There is anarchy." He also summarized his perception of Israeli Security Forces' failure that day, saying "At the end of the day, kibbutz Be'eri, kibbutz Nahal Oz, the party [Nova festival], all these kibbutzim were in our area. And with all the heroics we hear about, a lot of these stories occurred within the bases. Our *raison d'être* for being there was not to defend ourselves! [it was to defend the civilians]. Unfortunately, that morning we did not have this picture to even start trying to take these decisions."

202. The Commission observes that Israeli Security Forces failed to understand the magnitude of the attack and were unprepared to respond to an attack on the scale of 7 October. They were overwhelmed by the large number of locations of simultaneous attacks on bases, kibbutzim and towns in the area, lacked effective communication between forces on the ground and higher command, and failed to understand the full tactical situation on the ground, due to the militants rendering surveillance equipment ineffective earlier in the day.

203. In relation to ground forces, the Commission documented several accounts of individual members of Israeli Security Forces who decided, largely on their own accord, to deploy to the Otef Aza area and to help with the counter-offensive. Others consulted with Israeli Security Forces members of various ranks prior to deployment. Many of these self-deployed Israeli Security Forces members lived in locations in or near Otef Aza. In some instances, armed Israeli civilians decided to join the battles independently. These deployments appeared to be disorganized, with Israeli Security Forces members picking up other soldiers on the way and diverting to other locations without clear orders from the military leadership. In one case, the head of the Givati Brigade, who lives in the village of Meitar, some 45 minutes' drive from the Gaza border area, stated in a media interview that he had heard the sirens and explosions and called the Israeli Security Forces Southern Command who told him to go to Sderot. On his way to Sderot he picked up some soldiers who were stationed nearby. While in Sderot, he received a call from another Israeli Security Forces member who told him to leave Sderot and go to Kfar Aza and Nahal Oz. He took a quick decision to go to Kfar Aza, while calling on other Givati forces to join from various locations in Israel. In another case, the head of an Israeli Security Forces reserve unit (*Gdud 71*), Lieutenant Colonel Meir Carmi, informally conscripted his unit and called it into battle without receiving a deployment or conscription instruction for the unit.

204. In locations where Israeli Security Forces ground forces were present in the early morning hours, most on self-deployment, there was mass confusion, including around coordination with local rapid response units, identification of militants, and insufficient forces to push back attackers. Soldiers reported feeling helpless, not knowing when reinforcements would arrive. A police officer fighting in Kfar Aza filmed frantic scenes through his body-camera, showing calls for additional forces to deploy,

⁶⁹ In Nir Oz for example they only arrived at around 14:00. Similarly in Be'eri large forces arrived at around 16:00. See paras 216-217 below. In kibbutz Kfar Aza, external forces arrived sometime after 11:00 and it took them some two days to fully clear militants from the kibbutz.

calls for medical assistance, and his confusion over how to identify militants when some were dressed in civilian clothes and roaming around the kibbutz freely.

205. In relation to the Israeli Security Forces Armored Corps, reports indicate that some 23 tanks were stationed throughout the whole border area with Gaza, many of them unmanned. The southern reach of the Gaza Battalion had six manned tanks covering 35 km of the border. According to the testimony of a tank crew based in the Mars outpost, at 06:30 on 7 October, crew members were woken by the rockets and decided to drive their tank west towards the border. While they were driving, they received an order from Colonel Assaf Hamami, Commander of the 7th Brigade, to move through the fields towards kibbutz Nirim and defend the kibbutz. On the way to Nirim they noticed militants and engaged in battle. In Nirim the tank crew received reports of 22 different breaches of the border and 10 different fighting locations, all in the southern reach. They drove towards military identification point 179, close to kibbutz Nir Oz, where a burnt-out tank was standing with nobody inside. The crew thought that Israeli Security Forces had been abducted. In the same area of point 179 they noticed hundreds of people crossing into Israel and back to Gaza and they shot at them, including at vehicles laden with people, some of whom may have been hostages.⁷⁰

206. Several other tank teams joined the battles from a base further south in Nitzana, where tanks were stationed to secure the border between Israel and Egypt. At least three tanks came from Nitzana. One tank was positioned at the fence near Kissufim, another went to kibbutz Holit to fend off militants and the third joined the battle at the Sufa outpost.

207. In relation to the Israeli Air Force, the Commission confirmed that at least eight Apache helicopters were dispatched to the area around the Gaza border on 7 October, observing the situation on road 232, attacking militants and others crossing over from Gaza through the breaches in the fence, providing air support to forces battling in the Nahal Oz outpost and reportedly shooting at targets in kibbutz Kerem Shalom. Video statements by Apache helicopter pilots, included in an Israeli news segment, assert that two Apache helicopters, from Squadron 113, were in the air and carrying out attacks on Israeli soil from the early hours of 7 October. At 06:50, the two helicopter crews, who were on alert at the base, were sent to their helicopters. At 07:00 they were already on their way to the Gaza border area. One of the helicopters was deployed towards Zikim, instructed to assist the Navy to thwart the entry of a boat onto Israeli shores. At 07:35, two additional attack helicopters arrived from a base in the north of the country and were sent to the area of the Nahal Oz base.

208. The Israeli Air Force also faced challenges in distinguishing civilians from combatants. One of the pilots stated in an interview “I understand that I will have a dilemma who are our forces and who are enemy forces if at all, and who are civilians”. Another pilot, Lieutenant Colonel A [names redacted at source], stated that he then started firing at people crossing over the fence into Israel. A third pilot, Lieutenant Colonel E, commander of Squadron 113, stated that he arrived at around 07:50 and saw a lot of bonfires and small arms fire and he focused on a group of perceived militants approaching one of the military outposts. Helicopters also directed fire on the breaches in the fence where they shot at people and vehicles entering Israel.

209. By 10:00 there were reportedly eight attack helicopters in the air. One of the pilots stated that at some point they realised that Israelis were being abducted and taken back to Gaza. He said, “I allow myself to say that I already understand how targets operate. An abducted person will not run in the middle of a group of people without anyone holding him. I choose targets that I say to myself that the chance that I am also shooting at abductees is low... but it is not 100 percent.”

⁷⁰ See more in para 226 below.

210. In addition to the Apache helicopters, at least one Israeli Air Force Yas'ur⁷¹ helicopter was in the air. The helicopter was shot down by militants in the late morning near kibbutz Be'eri while deploying troops. According to reports and footage viewed by the Commission, all troops in the helicopter managed to escape.

211. Six Israeli police helicopters were also in the air that day and faced challenges in coordinating their operations with the Israeli Air Force. The Commission viewed footage and conversations between police helicopter pilots and Israeli Air Force contained in an Israeli tv news segment, with the latter instructing the police not to deploy to active battle scenes without the accompaniment of an Israeli Air Force attack helicopter. A police helicopter pilot is heard saying in response: "Roger. Sometimes we have to take risks. We know there is an incident of a force in danger in Sderot. The idea is to give them eyes, to understand who is against who. To build a picture there." The pilot tries again "we will be happy to deploy for 15 minutes, to give them a picture, there is a massacre there, friends". Yet the Israeli Air Force persisted in its restrictions, noting that they fear that militants will use anti-aircraft missiles against the unarmed helicopters. The police helicopter pilot then decided to ignore the Israeli Air Force instructions and deploy to Sderot where it hovered over the police station, providing information to the police forces fighting inside and requesting Israeli Air Force attack helicopter assistance. The remaining five police helicopters then deployed for liaison, communication and deconfliction between Israeli Security Forces, Israeli Air Force and police on the ground throughout the day.

Israeli Security Forces counter-offensive in kibbutz Be'eri

212. The 10 members of the kibbutz's rapid response team were the first line of defence for Be'eri residents. By 07:30, two members of the response team had been killed and another three wounded. The wounded were taken to the dental clinic, where the remaining medical staff were hiding. Once inside, the clinic was barricaded and defended by the remaining members of the response team. At 13:50, the rapid response team, still defending the dental clinic, ran out of ammunition and the attackers broke into the building. According to a recorded call by a paramedic, Amit Man, who was treating the wounded in the clinic, at 14:15 militants shot her in the legs and killed most others in the building. Despite wearing a medic uniform, Amit Man was also killed by the attackers. The only survivors at the clinic were another nurse, who was hiding in the clinic's bathroom, and one member of the response team, who was taken for dead by the attackers. They were evacuated from the clinic by Israeli Security Forces sometime between 16:00 and 18:30 on 7 October.

213. The first external response force, comprising five counter-terrorism unit (*Yamam*) officers, approached the entrance of the kibbutz as early as 07:37, where they joined some members of the rapid response team. Overwhelmed by the militants and suffering losses, they retreated an hour later. At 09:00, a 14-member team of Israeli Air Force Unit 5101 (*Shaldag*) was airlifted by helicopter close to the kibbutz. The team positioned itself at the entrance, trying to block the arrival of more militants, resulting in some clashes. After several hours, however, the unit was outnumbered and it too was forced to retreat.

214. At 13:00, the *Shaldag* unit returned to the kibbutz reinforced by the General Staff Reconnaissance Unit (*Sayeret Matkal*). Only at around 14:30, some seven hours after the start of the attack, Israeli Security Forces started to recapture the communal and residential buildings of the kibbutz. However, due to the relatively small number of forces, the advance was slow. At 16:00, additional Israeli Security Forces ground troops, with armored corps soldiers manning two tanks, were deployed to the site and, sometime after 16:00, began regaining control and started evacuating residents.

215. According to witness testimonies, even after being deployed to the kibbutz vicinity, Israeli Security Forces failed to dispatch all available forces into the kibbutz to

⁷¹ Type Sikorsky CH-53 Sea Stallion, known in the Israeli Air Force as Yas'ur.

fend off the attack and assist the civilian population. Video footage retrieved from a police helicopter indicates that at 16:23 a large Israeli Security Forces convoy gathered in front of the yellow gate of the kibbutz but did not move inside. Large numbers of Israeli Security Forces soldiers were seen still waiting outside the kibbutz gate as of 18:10, according to the testimony of a member of the kibbutz rapid response team who observed, “Five hundred IDF soldiers were outside, organized, with dogs, with equipment, weapons, and armored vehicles; they were standing outside and not a single one of them is doing anything ... They kept repeating, ‘The field isn’t sterile, the field isn’t sterile’.” This testimony was confirmed by other survivors, who witnessed Israeli troops at the entrance of the kibbutz at this time. At 22:00 on 8 October, Israeli Security Forces announced that it was in control of the kibbutz while the full elimination of all militants was reported in the afternoon of 9 October.

Israeli Security Forces counter-offensive in kibbutz Nir Oz

216. Israeli Security Forces provided no external assistance to kibbutz Nir Oz during the 7 October attack, leaving the local rapid response team to fend for itself. According to reports, the kibbutz’s rapid response team did not have sufficient ammunition and many of the team did not manage to reach the armoury to get their weapons and so were essentially unarmed. At least one member of the rapid response team was killed during the attack and the commander of the team was injured. At 13:50, the first Israeli Security Forces started arriving at the kibbutz, including fighters from marine commando *Shayetet 13* unit who arrived by helicopter at 14:40. Despite the forces’ arrival and the departure of militants back to Gaza, messages continued to be sent on the kibbutz chat groups with requests for help until 17:30.

217. It appears that kibbutz Nir Oz suffered in particular from the vacuum of information inside the Israeli Security Forces (see para 201 above) which resulted in no reinforcements sent. An investigation by Haaretz claimed that, even when Israeli Security Forces command knew about the situation in the villages, they prioritized the protection of military assets that day. Moreover, those few Israeli Security Forces teams that were deployed that day to the area – before more reinforcements arrived – were sent to Kfar Aza, Nahal Oz, Be’eri, Kissufim, Nirim, Nir Itzhak, Holit and Kerem Shalom. None were sent to Nir Oz until after the militants had left.⁷²

Israeli Security Forces counter-offensive in the Nova festival site

218. At around 12:30, the first Israeli Security Forces reinforcements began to arrive at the Nova site, joining the remaining police who had been assigned to work at the festival, some limited police reinforcements who had arrived throughout the morning and several soldiers from the army who arrived independently at the scene.⁷³ Two of the soldiers were a Brigadier General (reserve) and his son, an officer in the Gaza Battalion. The two were living in one of the kibbutzim in the area and had been trying to reach the Gaza Battalion base in Re’im when they stopped to assist fleeing festival-goers at the intersection between the Nova festival and road 232. According to a video testimony, they were armed with handguns only and were positioned for a while among the cars at the traffic jam at the exit into road 232. The two, who had seen militants on the way from their home, tried to warn festival-goers to flee through the field east of the site. At the junction they joined several police officers who were working at the festival and the group tried to hold their position against approaching militants. They eventually entered a car driven by one of the policemen, drove south on road 232 and stopped after a few hundred meters at a parked tank on

⁷² <https://www.haaretz.co.il/news/politics/2024-04-11/ty-article-magazine/.premium/0000018e-cd14-df04-adae-edd677210000>.

⁷³ Some information places Givati *Shaked* forces at the Nova site as early as 10:30 in the morning, reportedly the force travelled from the West Bank once they heard the sirens at 6:30 am with the aim of joining the battle and defending the civilians.

the side of the road, and joined a group of police who formed a defensive position behind the tank where tens of festival-goers were hiding.

219. The Commission confirmed the presence of this tank at the Nova festival site, through multiple testimonies and visual evidence, which protected some 30 fleeing festival-goers. According to the tank driver's testimony given to Israeli media, the tank was part of the 77th battalion of the Armored Corps that had been stationed close to the perimeter fence and had participated in initial battles against approaching militants earlier that morning. The tank driver reported that his crew had killed 15 militants before being shot at with an anti-tank missile, after which he drove the tank away from the scene to escape additional hits. At around 08:20, the tank reached the area of Re'im where he noticed many parked cars. He was not aware of the festival taking place in this location. He saw a battle underway between approximately 10 police officers and 50 militants. The tank's cannon was not working at this point, so he decided to position the tank between the police and the militants to block off the militants' access. At 08:30 the position was largely overrun and militants started climbing on the tank. The tank driver drove off as grenades were thrown into the tank, running over militants in his wake, eventually coming to a stop on a clearing some 500 meters south of the intersection. He then escaped from the tank, suffering from injuries, and hid in a nearby location. Additional video footage recovered from that day and viewed by the Commission confirms these details. In a video viewed by the Commission, a tank is seen driving alongside abandoned vehicles, running over some of them, at the intersection between the Nova festival exit and road 232, heading south.

220. At around 10:00, people fleeing the festival started congregating behind the tank. Two surviving festival-goers stated in a media interview that, upon noticing the tank, they entered it to look for ammunition or weapons. They reported that the tank was abandoned and contained the bodies of soldiers. The Brigadier General (reserve) mentioned above, reportedly managed the defence of the position.⁷⁴ The group found one machine gun in the tank and used it to defend the position over the next several hours, with some 30 fleeing festival-goers taking cover behind the tank. According to his statement, he informed the Gaza Battalion of his position and requested the deployment of an attack helicopter to assist in the battle. He stated that a helicopter was sent to their position but could not fire since the pilot could not distinguish between civilians and militants. However, according to him, the presence of the helicopter in the air served as a deterrence to militants who reduced the intensity of their attack.

221. Footage viewed by the Commission from the area around the tank shows some 30 people hiding behind the tank which is flanked by a parked white van on one side and a black vehicle on the other. Several of those who are hiding are lying on the ground and some appear to be wounded. Two men are seen wearing combat helmets and civilian clothes; these are likely the two men noted above who found the helmets inside the tank. The group includes two armed policemen visible in the footage. One man in a blue uniform is seen speaking on the phone in the footage and is likely the Brigadier General. Two of those who took cover behind the tank were Palestinian citizens of Israel who had been working at the Nova festival. They stated in an interview that they dug a ditch under the tank in order to hide. They hid in that location with other injured people, including one person who was injured from an RPG fired towards the tank. According to surviving witnesses, everyone who hid behind the tank survived.

Israeli Security Forces counter-offensive at Zikim beach

222. In Zikim Beach, Israeli Security Forces learned of the impending attack after several Hamas boats had already left Gaza and were noticed by the Navy lookout officers. The security coordinator of kibbutz Zikim reported that at 6:34 he had received a call that the Israeli Navy had declared a "parash" situation [Israeli Security Forces

⁷⁴ See para 218 above.

code for infiltration], reporting that seven boats had left Gaza and four boats were approaching Zikim beach. The security coordinator reported understanding that two of the boats were heading to Masa Erez military base while two others were heading to Ashkelon. Reportedly, four of the seven boats were intercepted by the Navy at sea, one of which went up in flames. The Commission viewed video footage of the Navy's counter-offensive and confirms that, while one rubber boat was burning, some distance away, soldiers upon a Navy boat were shooting and throwing grenades at militants who were in the water. The Navy boat in the video is seen approaching the Zikim power station from the south. The Commission assesses that the Navy was chasing boats that were trying to aim for Ashkelon. Video footage from the beach security camera shows that two boats made landfall on Zikim beach some 50 meters apart. Five Hamas militants emerged from the first boat at 06:45, running towards the beach and shooting, while shortly after four Hamas militants emerged from the second boat and headed for the beach.

Israeli Security Forces counter-offensive and the application of the 'Hannibal Directive'⁷⁵

223. The Commission documented strong indications that the 'Hannibal Directive' was used in several instances on 7 October, harming Israelis at the same time as striking Palestinian militants.

224. In relation to the Nova site, several reports claimed that Israeli helicopters were present at the Nova site and may have shot at targets on the ground, including civilian vehicles. The Commission verified the presence of at least eight attack helicopters in the area of Otef Aza at various times on 7 October,⁷⁶ with one or two helicopters present over the Nova festival site in the mid-morning hours. This is based on the testimony of a Palestinian citizen of Israel who was working at the Nova festival who stated in an interview that, shortly after militants arrived in the Nova site, he saw a helicopter hovering over the site. Additionally, an Israeli Security Forces reserve Brigadier General, who fought against militants near a parked tank close to the Nova site, stated that he called the Gaza Battalion to request an attack helicopter and that one was deployed, although it served for deterrence purposes only.⁷⁷

225. A report in Israeli publication Haaretz claimed that, after the attack, Israeli Security Forces southern command identified 77 car wrecks which had been shot by Israeli tanks, helicopters or drones. A similar allegation was made in an investigative report by an Israeli news publication, stating that, once the first indications of a mass abduction incident were received by Israeli Security Forces, at around noon on 7 October, a Hannibal Directive was issued directing pilots and other Israeli Security Forces personnel to target all vehicles returning to Gaza that day. Although the Commission confirmed the presence of helicopters in the area, it was unable to confirm whether these helicopters directed firepower at any actual targets in the Nova area, vehicles or otherwise.

226. A video statement by an Israeli Security Forces tank driver, viewed by the Commission, confirms that at least one individual tank team knowingly applied the 'Hannibal Directive' that day. In a statement given to an Israeli news channel, a tank driver and commander stated that they targeted two Toyota vehicles with militants and Israelis. This occurred at point 179, close to kibbutz Nir Oz. They noted that there were many people standing in the back of the pickup trucks and what appeared to be a "pile of other people" next to them. The tank team could not confirm whether the people they saw were alive or dead at the time. They shot towards the two vehicles and assessed that they hit the first vehicle and may have missed the second

⁷⁵ While the Commission has not seen the official directive, according to reports, The Hannibal Directive is the name of a controversial procedure that is used by Israeli Security Forces to prevent capture of Israeli Security Forces by enemy forces.

⁷⁶ See para 207 above.

⁷⁷ See para 220 above.

one. Asked why he decided to shoot at the vehicles, the commander said “something in my gut feeling made me think that they [his soldiers] could be on them [on the vehicles]. Yes, I could have killed them, but I decided that this is the right decision. I prefer stopping the abduction so they won’t be taken.” The tank commander also clarified that the Hannibal Directive involves several stages: “when you implement the order itself, there are several gradual things you need to do. You need to direct fire to ‘blocking locations’ and ‘control points’, and, when you have recognition, you have to also do that thing [referring to the Hanibal Directive]”. He concluded by saying that to his knowledge he did not kill any soldiers.

227. The Commission verified information indicating that, in at least two other cases, Israeli Security Forces counter-offensive actions resulted in harm to and the killing of Israeli civilians and, in one of the cases, the actions were undertaken with clear knowledge of this risk. According to the Commission’s investigation, in these two cases at least 14 Israeli civilians were likely killed as a result of Israeli Security Forces fire: one woman was killed by helicopter fire while being taken from kibbutz Nir Oz to Gaza by militants⁷⁸ and the other 13 were likely killed by tank shelling and crossfire in kibbutz Be’eri.⁷⁹

228. In relation to the killing of Israeli hostages in kibbutz Be’eri, according to the Commission’s investigation, at 12:56 approximately 40 Hamas militants and members of other armed groups broke into the house of Be’eri resident Pessi Cohen, killing one civilian hiding in the house and wounding one other. The attackers then brought to the house several other civilians who had been abducted from other houses in the kibbutz, and the militants gathered them in the dining room. At this point there were 15 civilians in the house, including two 12-year-old children. According to survivors’ testimonies, the militants also brought a Palestinian man from East Jerusalem who had been abducted from the Nova festival to act as an interpreter. At approximately 15:00 the militants’ commander, Hasan Hamduna, asked one of the hostages, a woman who had fled the Nova festival and sought refuge in Be’eri, to call the *Yamam* unit of the police and negotiate a safe passage to Gaza together with the hostages. Reportedly, Hamduna stated his affiliation with the al-Qassam Brigades in the call with the Yaman. Hamduna demanded safe passage for himself and the abductees to Gaza or he would kill the hostages.

229. At approximately 16:00, the first large Israeli Security Forces force, led by the commander of the 99th Infantry Division Brigadier, General Barak Hiram, arrived at the site alongside *Yamam* forces. According to the testimony of a surviving hostage, while seven of the hostages were still outside the house in the yard, *Yamam* forces started firing at the members of the armed groups, resulting in a firefight, with hostages in the yard being trapped in the middle. After around 30 minutes, at approximately 16:30, Hamduna, who was still talking on the phone with *Yamam*, announced that he wanted to surrender. Instructed by the police to undress, Hamduna undressed and stepped out of the house with the female hostage using her as a human shield. At 17:30 Hamduna and the hostage reached the Israeli Security Forces. After safely reaching the police, Hamduna was detained and the survivor was interrogated and shared information about the 14 hostages still being held in the house and the 40 militants still inside. According to the survivor’s testimony, while she was being interrogated, the firefight with small arms fire and RPGs between the Israeli Security Forces and militants continued. According to reports, Hamduna agreed to call out to the remaining militants in the house with a loudspeaker and tell them to surrender. Yet, the exchange of fire continued for another hour, resulting in the death of at least two hostages in the house yard.

230. At approximately 17:30, the barricaded militants fired an RPG rocket at the Israeli Security Forces. According to the survivor’s testimony, at around 19:00, Brigadier General Barak Hiram gave an order to fire tank shells at the house, “even at the cost of civilian casualties”, he was quoted as saying in a later media interview. According to video footage retrieved from a police helicopter, and the survivor’s

⁷⁸ See paras 62-63 and 232.

⁷⁹ See paras 228-231 below.

testimony, an Israeli Security Forces tank fired two shells in the direction of the house. After the tank finished shooting, the survivor reported hearing Israeli Security Forces saying: “there is an injured hostage”, and retrieved another woman from the house. The second survivor who survived the shelling told media sources that her husband had died as a result of the shelling, while she was injured by the shrapnel. Thirteen people were killed in this incident, including two 12-year-old twins, Liel and Yanai Hezroni, and their aunt, Ayala Hezroni. The Commission notes that at least some of the hostages were killed by crossfire while they were in the garden.

231. An investigation by an Israeli news site, published in April 2024, refuted some of these details and claimed that a total of three shells were fired at the house that day: two initial shells were fired earlier in the afternoon and were intended as warning shells aimed at targets adjacent to the house. These shells did not cause significant damage to the structure or to the people inside it. According to the investigation, only at around 19:00 Israeli Security Forces led by *Yamam* considered a strike that would “aim to end the situation”. A decision was then made to shell the roof of the house. Following the shelling, *Yamam* forces entered the home, took note that some people were still alive, including militants, and saw a woman who had survived. They removed her from the house as it went up in flames.

232. The Commission also verified information indicating that at least one resident of kibbutz Nir Oz was killed as a result of Israeli Air Force helicopter fire as she was being abducted into Gaza. Efrat Katz, aged 68, was abducted by militants along with her daughter and two granddaughters, as well as other kibbutz residents. Efrat and the other abductees were placed in the cart of a tractor and driven in the direction of Gaza. According to her daughter’s testimony to Israeli media, on the way to Gaza an exchange of fire erupted between the militants and Israeli Security Forces, who were trying to stop them. As a result of the shooting, Efrat Katz was killed, while her daughter was wounded in her back and one of her daughters was wounded on her leg.

233. A released hostage from kibbutz Nir Oz was also in the cart of the tractor and witnessed the events unfolding. She stated that at approximately 11:30 the tractor reached some 150 meters before the border. She then heard the sounds of a helicopter in the air and of shooting. She realized that she had been hit by the gunfire and that Efrat had been hit too. She confirmed that Efrat died on the spot as a result of the helicopter fire.

N. First responders

234. The Commission observed a series of deficiencies in the Israeli examination of the crime scenes and the processing of bodies for identification and burial, including the absence of systematic collection of forensic evidence. The Commission verified through several interviews that all bodies were brought for identification to the Shura camp near Ramleh, where two separate camps were eventually established given the large volume of incoming bodies (Shura A and Shura B). In the days following the attack, criticism began mounting on the slow identification of bodies, with many families being told that their loved ones were ‘missing’. On 11 October, the head of Unit 360 reportedly stated in a media article that the process in Shura included photographing the bodies, taking fingerprints and checking for special identification marks such as tattoos or piercings. Fingerprints are then cross-checked against a database and, once there is a match, the body is released for burial. When there is no match, a DNA sample is taken from the deceased and cross-checked against DNA provided by families of missing persons. He did not mention any collection of forensic material or forensic identification processes. Similarly, testimonies by first responders working in Shura collected by the Commission emphasised a focus on the identification process and religious rites and did not mention forensic evidence collection. One first responder working in Shura camp told the Commission that they spent approximately five to seven minutes on each body, taking photos, checking for identification marks and taking fingerprints.

Additionally, according to a report in an Israeli news publication, there was only one CT scanner in the Shura camp. CT scanners are integral for the investigation of the cause of death.

235. The Commission notes that religious volunteer groups, including Unit 360 and ZAKA, were deployed as first responders that day, entering locations immediately after they were cleared by Israeli Security Forces. The Commission observes that these units were not trained or equipped to manage large, complex crime scenes and may have also tainted, or even tampered with, evidence. According to several reports, in the first days following the attack, first responders worked in several locations under fire and were therefore told to hasten the processes of removal of bodies, resulting in no or limited images of the original state of the body taken by a qualified police photographer. In other locations, first responders took photos with their own phones, in some cases covering victims for modesty. One first responder working for ZAKA provided inaccurate and exaggerated accounts of findings in media interviews.

O. Perpetrators and accountability

236. The Commission documented substantial evidence that the attacks on Israel on 7 October were led by the Hamas military wing, the Izz ad-Din al-Qassam Brigades, together with other Palestinian armed groups. In addition to the al-Qassam Brigades, the Commission identified that the military arms of six other Palestinian armed factions participated in the attack: the Palestinian Islamic Jihad, the Al-Aqsa Martyrs' Brigades, the Popular Front for the Liberation of Palestine, the Democratic Front for the Liberation of Palestine, the Popular Resistance Committees and the Palestinian Mujahideen Movement. The Commission found that prior to the attack, all seven groups were taking part in joint military manoeuvres aimed at "simulating expected enemy threats and increasing the efficiency and ability of resistance forces to fight in various circumstances", which was overseen by the Palestinian Joint Operations Room. In an interview with Al-Jazeera in June 2023, Ayman Nofal, the Commander of Military Relations and a member of the General Military Council of the al-Qassam Brigades, stated that the Palestinian Joint Operations Room is an alliance of military arms of Palestinian armed groups, established in 2018 in Gaza to coordinate their activities against Israel. Nofal stated in the interview that the alliance is currently composed of the military wings of ten Palestinian armed groups, including the seven who participated in the 7 October attack. The Commission confirmed this information through additional sources including images, videos and statements issued by the Joint Operations Room.

Evidence of the involvement of Izz ad-Din al-Qassam Brigades (Hamas military wing)

237. At 07:47 on 7 October 2023, the Commander of Izz ad-Din al-Qassam Brigades, Mohammed al-Masri (also known as Mohammed "Abu Khaled" Deif), announced the start of the offensive against Israel named "Operation Al-Aqsa Flood". The central role of al-Qassam Brigades in the attack was echoed by the Head of Hamas Political Bureau, Ismail Haniyeh. Israeli Security Forces later stated that the members of al-Qassam Brigades, led by the elite Nukhba unit, were the major perpetrators of the 7 October attack.

238. On 8 October 2023 the Palestinian Islamic Jihad political leader, Ziad al-Nakhala, confirmed that his group was holding more than 30 hostages from Israel. On 16 October 2023, the official spokesman of the Izz ad-Din al-Qassam Brigades, Abu Ubaida, confirmed that Hamas was holding 200 Israeli hostages in Gaza, noting that some 50 more hostages were being held by other Palestinian armed groups. The Palestinian Mujahideen Movement and the Popular Resistance Committees also claimed to be holding hostages.

239. The Commission verified information that the attack on kibbutz Be’eri was carried out by the Hamas al-Qassam Brigades, spearheaded by the Nukhba unit, and the Palestinian Islamic Jihad military wing Saraya al-Quds Brigades. The participation of Hamas military wing in the attack was confirmed through statements made by Hamas itself and by a video dedicated to the attack on Be’eri, published later in the day on 7 October by al-Qassam Brigades, titled “Scenes from the al-Qassam Brigades storming the ‘Be’eri’ military site, east of the Central Governorate, and killing and capturing its soldiers during the Battle of Al-Aqsa”. CCTV and bodycam footage from the attack on Be’eri further confirms the presence of al-Qassam Brigades, as well as graffiti in Arabic left on one of the houses, reading “Allahu is great, al-Qassam Brigades, victory war”. The Commission found that the Palestinian Islamic Jihad also took part in the attack on Be’eri. Graffiti left on a house in the kibbutz read “Al-Quds Brigades, Sayyid Qutb”. The Commission also found that Palestinian Islamic Jihad took part in the abduction of civilian hostages. On 8 October 2023, the secretary-general of Palestinian Islamic Jihad, Ziad al-Nakhala, announced that his faction abducted more than 30 Israelis during the 7 October attack. On 30 November 2023, al-Qassam Brigades published an official video of a joint hostage release together with Palestinian Islamic Jihad .

240. The Commission verified information that the attack on kibbutz Nir Oz was carried out by at least 100 members of the military arms of Hamas, the Palestinian Islamic Jihad, the Al-Aqsa Martyrs’ Brigades, the Palestinian Mujahideen Movement and the Popular Resistance Committees. The participation of the Hamas military wing in the attack on kibbutz Nir Oz was confirmed by the Commission through the analysis of digital evidence depicting armed militants wearing the distinctive insignia of the Izz ad-Din al-Qassam Brigades taking part in the abduction of the residents of the kibbutz, as well as graffiti left on the house of Ofer Kalderon, who was abducted during the 7 October attack. The image depicting the graffiti was published by the Times of Israel on 31 October, in Arabic reading “al-Qassam Brigades”.

241. The Commission verified information that the attack on kibbutz Nahal Oz was led by the Hamas al-Qassam Brigades. In a video shot by militants during their attack on the Arava-Elyakim family in Nahal Oz, militants clearly identify themselves as belonging to al-Qassam Brigades. Later in the video, one of the Hamas militants is seen speaking into a handheld radio, communicating with other militants, likely also located in Nahal Oz. Based on the Commission’s analysis of the content of the communications and how other militants provided him with updates on their actions, the Commission assesses that the Hamas militant who was speaking on the radio held a command position in the attack on the kibbutz.⁸⁰

Evidence of the involvement of the Saraya Al-Quds Brigades (Palestinian Islamic Jihad military wing)

242. At 08:09 on 7 October 2023, the official spokesman of Palestinian Islamic Jihad military wing al-Quds Brigades, Abu Hamza, made a statement confirming the participation of the al-Quds Brigades in the attack on Israel, together with Hamas. “We are part of this battle, and our men are fighting shoulder to shoulder alongside with their brothers in al-Qassam Brigades until victory, God willing.” This statement was later supported by the official propaganda movies released by the al-Quds Brigades showing their attack on Israel and by the statements about Israeli hostages abducted by the Palestinian Islamic Jihad from the kibbutzim.

243. The Commission verified information that Palestinian Islamic Jihad armed forces were directly involved in the attack on kibbutz Nir Oz. On 7 October 2023, the official Telegram channel of the al-Quds Brigades published a video titled “Scenes of the al-Quds Brigades storming a number of military sites and settlements around the Gaza Strip as part of the battle al-Aqsa Flood”. The edited video depicts armed militants arriving at Nir Oz in a vehicle and on motorbikes and infiltrating the kibbutz through

⁸⁰ See paras 181-187 above.

its southern yellow gate and the breach in the western vineyard gate. The Palestinian Islamic Jihad video also shows them abducting an elderly woman, who is hauled into a white pickup truck. Two militants who appear in the abduction scene are armed with automatic rifles. The abducted woman was identified by the Commission as an 84-year-old woman from Nir Oz, which was confirmed by her family members.

244. On 8 October 2023, the official Telegram channel of the al-Quds Brigades published another film depicting the attack of the group on Nir Oz. In the video three Palestinian Islamic Jihad militants are seen breaking into the house of 59-year-old Yair Yaakov and his 54-year-old partner and blasting the door of the safe room, where the couple were hiding, with a hand grenade. The video further shows the militants extracting the couple, who do not appear to be injured, from the safe room. In another propaganda video released by al-Aqsa Martyrs' Brigades at 12:35 on 7 October 2023, Yair Yaakov is seen being transported in a car and appears to have severe head and body burns.

245. In another video circulated in Telegram and X on 7 October 2023 a 90-year-old Argentinian-Israeli woman from Nir Oz can be seen captured by a militant, who bears the insignia of the Al-Quds Brigades. The woman was forced to pose in pictures with the attackers but was not abducted by the militants, even though during the attack on the kibbutz eight members of her extended family were abducted and as of May 2024 two of her grandchildren remain in captivity.

Evidence of the involvement of the Al-Aqsa Martyrs' Brigades (linked to Fatah)

246. At 08:30 on 7 October 2023, al-Aqsa Martyrs' Brigades announced that they were joining the attack on Israel together with other Palestinian armed factions. At 12:35 of the same day, the Al-Aqsa Martyrs' Brigades released a video with the title "Scenes of capturing enemy soldiers". The video, filmed from inside a moving car, depicts a militant in the distinctive headband of al-Aqsa Martyrs' Brigades sitting next to a male Israeli abductee, confirmed by the Commission as 59-year-old civilian Yair Yaakov from kibbutz Nir Oz. Yaakov, lying on the floor of the vehicle, appears to have sustained severe head and body burns. In the video the militant pushes him with an automatic rifle, supposedly to make him move. The Commission could not definitively conclude from the film whether Yaakov was alive or dead at this point.

247. Yaakov also appeared in the propaganda video of the al-Quds Brigades that shows the Palestinian Islamic Jihad militants breaking into his house and capturing him, together with his partner.⁸¹ In the Palestinian Islamic Jihad video Yaakov does not appear to be severely injured, which implies that he was wounded and handed over by the Palestinian Islamic Jihad to al-Aqsa Martyrs before 10:23 on 7 October 2023.⁸² On 15 February 2024 it was announced that Yair Yaakov had been killed on the day of the attack and his body was taken to Gaza, where it is still held as of February 2024.

Evidence of involvement of the Mujahideen Brigades (Palestinian Mujahideen Movement)

248. At 08:19 on 7 October 2023, the Mujahideen Brigades announced their participation in the attack on Israel together with Hamas: "Leader of the Mujahideen Brigades: Our Mujahideen in the field, fighting side by side with their brothers in the Al-Qassam Brigades and the resistance factions, invaded the lands and caused many deaths among the Zionist soldiers and rapists." On the same day, the Mujahideen Brigades published a film with the accompanying text reading: "The leadership of the Mujahideen Brigades inspects our forces storming the Zionist settlements perched on our occupied lands east of the Gaza Strip this morning, corresponding to Saturday 10/7/2023 AD". The video shows members of the Mujahideen Brigades driving along a road inside Nir Oz in a pink-coloured quadbike.

⁸¹ See para 244 above.

⁸² This conclusion was reached based on the metadata analysis of the video which revealed that the video was created on 7 October 2023 at 10:23.

249. On 19 March 2024, Israeli Security Forces published three videos recovered from a street camera in eastern Khan Yunis showing three members of an Argentinian-Israeli family who were abducted to Gaza on 7 October, a mother and two young children. The video footage shows the three being escorted by a group of six unarmed men in civilian clothes along a dirt road of an urban district. In a separate image published by Israeli Security Forces and verified by the Commission, the three abductees are seen standing in front of a dark-blue and grey pick-up truck surrounded by 13 unarmed men dressed in civilian clothes. According to Israeli Security Forces, the image shows the transfer of the three abductees to the Mujahideen Brigades. Based on verified digital evidence sources, the Commission assesses that the Mujahideen Brigades had some involvement in the abduction and captivity of the three family members. In addition to the videos and images noted above, in several statements issued by the Mujahideen Brigades, they claimed that the three hostages had been held by one of its cells and that its members died together with the hostages due to an Israeli Security Forces airstrike.

The involvement of Palestinian civilians

250. The Commission gathered and verified evidence that civilian individuals from Gaza entered Israel and joined the militants in their attacks in several locations, including Nir Oz, Be’eri and the Nova festival. In several cases, the Commission was able to conclude on reasonable grounds that these people were not members of Palestinian armed groups but were civilians who were directly participating in the hostilities.

251. The Commission notes that, in the photos and videos it verified, these individuals were dressed in civilian clothing (as opposed to the camouflage, webbing and other items of identifying military clothing worn by Hamas military wing and other non-State armed groups), were largely unarmed and followed a similar route into Israel from Gaza, based on analysis of routes from the Gaza Strip through breaches in the fence into Israel.

252. In kibbutz Be’eri, the Commission found that unarmed men from Gaza in civilian clothes aided militants during the attack, abducted residents of the kibbutz and looted their property. According to information documented by the Commission, these men joined militants in the attack on Be’eri at around 08:30 and were involved in the attack until at least 12:23.

253. In Nir Oz, the Commission found, based on its analysis of witness accounts, videos and photos, that dozens of Palestinians in civilian clothes arrived at the kibbutz from Gaza, took part in the abduction of Israeli civilians, broke into their houses and looted property and belongings, ranging from agricultural equipment to personal items. Furthermore, according to some witness accounts and imagery collected, at least three women and several children from Gaza were involved in the attack on Nir Oz.

254. Several residents of Nir Oz, who survived the attack, stated in media interviews that they saw Palestinians in civilian clothes entering and looting their homes. One resident of Nir Oz reported that the first wave of armed infiltration of the kibbutz was followed by the arrival of Palestinian civilians from the Gaza Strip, including teenagers, who looted her house, took cellphones and credit cards, and tried to make purchases with them inside Gaza a few hours later.

255. Another survivor recorded the attack with a personal security camera installed at the entrance of his house. The footage, viewed by the Commission, shows young Palestinian boys and a Palestinian woman stealing bicycles and his female neighbour being abducted on a motorcycle. Another survivor stated in a media interview that “hundreds of civilians, including teenagers and women, storming our Kibbutz and just stealing, destroying things”.

256. One released 16-year-old hostage described in a media interview seeing “crowds of Gazans” burning houses and looting the property of the residents of the kibbutz: “Bikes, tractors, mattresses, refrigerators, motorcycles, television sets, everything ... I see the terrorists holding bags packed with things.” The Commission corroborated this

statement by footage retrieved from various security cameras inside the kibbutz, showing Palestinians in civilian clothes stealing means of transport, such as bikes, and agricultural machinery, including tractors, from the village.

257. Another released hostage told Israeli media that she had been abducted from Nir Oz by Palestinian civilians, who had later sold her to Hamas. In an interview with Israeli tv, viewed by the Commission, she claimed that a young Palestinian civilian had broken into her house. She assessed that he was possibly 17 or 18-years-old. He had stolen money and food from her fridge and then, with an older man dressed in a combat vest and armed with a knife, he abducted her to Gaza. According to the survivor, she had been transported to Gaza in a golf cart, covered with a bedsheet. The Commission corroborated this incident with additional evidence showing an abductee covered with a bedsheet, sitting in a golf cart, surrounded by three unarmed Palestinians in civilian clothes.

258. The Commission also documented evidence indicating that a journalist from Gaza, who was filming the attack of 7 October, aided the attackers in their actions in kibbutz Nir Oz. The journalist was affiliated with the Saudi Al-Hadath news channel, whose watermark was on the footage he livestreamed. The journalist also filmed several abductions of Nir Oz residents.

259. In one video he recorded and livestreamed inside kibbutz Nir Oz, he filmed the attack on the kibbutz, while encouraging the attackers and appearing to provide them with instructions. In the beginning of the video, he is seen addressing an approaching militant holding a bolt cutter, instructing him to quickly break the windows: "Hurry up with these closed windows". Later, when filming the abduction of an 11-year-old boy, he is seen instructing the abductors not to hurt the boy: "These are settler children, spare them Don't hurt them." He also accompanied the militants who attacked an Argentina-Israeli family and filmed the abduction of the mother and her two children. In the video, he is seen giving instructions to the attackers, telling them to cover her with a blanket: "cover her, cover her, and keep her alive when you take her."

Attack aims, planning and coordination

260. In a statement issued on 12 October 2023, the official spokesman of the Izz ad-Din al-Qassam Brigades, Abu Obaida, said that Hamas leaders first proposed the 7 October attack in 2021. According to reports, preparation involved examining Israeli Security Forces tactics and strategies, terrestrial analysis, weapons' supply and training those members of Nukhba forces specifically selected for the operation. According to reports, Hamas military wing planned to deploy 3,000 militants to the field and have another 1,500 fighters for reinforcement and support.

261. According to videos, photos and statements distributed prior to the attack by the Palestinian Joint Operations Room (led by Hamas), the al-Qassam Brigades had been training militants for the operation together with other Palestinian armed factions as part of the joint military manoeuvres overseen by the Palestinian Joint Operations Room, also known as the Joint Operations Room of Resistance Factions.

262. For example, on 29 December 2020, the Joint Operations Room made an official announcement about the launch of military manoeuvres aimed at "simulating the liberation of settlements near Gaza". Four joint drills were then carried out over three years, with the last drill held on 13 September 2023, three weeks before the 7 October attack. The Commission notes that photos and videos of tactics used in the drills published by the Joint Operations Room closely resemble the tactics used by Hamas military wing and its allies in the 7 October attack, including infiltration simulation, raiding a mock compound and hostage taking.

263. According to several media sources, Israeli Security Forces were aware of the planned operation and had been warned about it more than a year prior to the actual attack. The detailed plan of the operation, setting out "The Mass Invasion Plan of Hamas", was reportedly presented by the Israeli Security Forces Gaza Division Commander to the Israeli Security Forces leadership in July 2022. Israeli Security

Forces leaders assessed that implementation of the plan was beyond the capabilities of Hamas. Moreover, on 1 October 2023, the Israeli Security Forces situational assessment revealed a sharp increase in drills by Nukhba forces, which was also disregarded by the leadership of the Israeli army. The Commission has been unable to ascertain whether and to what extent the Israeli political leadership knew of these assessments.

264. In an interview with the Associated Press published on 9 October 2023, Ali Barakeh, a senior political leader of Hamas, claimed that the operation was planned by a small number of top Hamas military wing commanders in Gaza and that the Government and military of Iran and the Hezbollah, the Lebanese militia allied to Hamas, were not informed in advance about the timing.

265. In the days and months after the attack, Israeli Security Forces recovered and published documents, allegedly found with the attackers, that suggest the existence of detailed attack plans for each location. These included annotated maps, operational instructions and aerial photos. The Commission was unable to independently verify these documents but notes that, if these documents are found to be genuine and truly originated from Hamas militants, they would point to a degree of planning of the attack, the identification of civilian targets and the extent of intelligence gathered beforehand. The documents contained intelligence on the number of residents living in each targeted village, the proximity of the village to the nearest military base and explicit instructions to kill people, including the instruction to “inflict the maximum possible human casualties”.

266. In the aftermath of the 7 October attack, Hamas military wing and other Palestinian armed groups stated to the media that their forces did not target or kill civilians. Several of these statements revolved around the definition of ‘civilian’.

267. For example, on 9 October 2023, the Head of Political and International Relations of Hamas, Dr Basem Naim, told Sky News that no civilians were killed by the group because “Israeli settlers cannot be considered civilians”. This notion was echoed by the official spokesman for the Palestinian Islamic Jihad, Musab al-Breem, who stated to the Norwegian Broadcasting Corporation that “there is no such thing as civilians in Israeli society”. The Commission notes that this definition of ‘civilians’ does not correspond with the definitions contained in international humanitarian law.

268. Other statements by leaders of Palestinian armed groups seemed to suggest that, if civilians were targeted and harmed, this was a result of actions taken by Palestinian civilians or accidental action by militants. In an interview with Al Jazeera on 12 October 2023, the Deputy Chairman of the Hamas Political Bureau, Saleh Al-Aroui, stated that al-Qassam Brigades were instructed to target only soldiers and that civilians from Gaza were responsible for the killing of Israeli civilians: “Hamas cannot harm civilians or prisoners, and we act in accordance with international laws of war ... When the Israeli Gaza division collapsed, civilians from Gaza entered and clashed with the settlers, and civilians fell.” This version was later supported by another senior political member of Hamas, Moussa Abu Marzouk, in an interview with the BBC on 7 November 2023. In the interview Marzouk refused to acknowledge that the group killed Israeli civilians on 7 October 2023, claiming that “women, children and civilians were exempt” from the attack. He also mentioned that the leader of al-Qassam Brigades, Mohammed Deif, had specifically ordered his fighters to spare women, children and older people: “El-Deif clearly told his fighters ‘don’t kill a woman, don’t kill a child, don’t kill an old man”.

269. On 21 January 2024, Hamas Media Office released an 18-page document titled “Our Narrative... Operation Al-Aqsa Flood”, where it provided its version of events unfolding on and after 7 October 2023. The document claims that the al-Qassam Brigades only targeted soldiers and armed civilians during the 7 October attack and any harm caused to non-combatants was accidental: “Avoiding harm to civilians, especially children, women and elderly people is a religious and moral commitment by all the Al-Qassam Brigades’ fighters. We reiterate that the Palestinian resistance was fully disciplined and committed to the Islamic values during the operation and that the Palestinian fighters only targeted the occupation

soldiers and those who carried weapons against our people. In the meantime, the Palestinian fighters were keen to avoid harming civilians despite the fact that the resistance does not possess precise weapons. In addition, if there was any case of targeting civilians; it happened accidentally and in the course of the confrontation with the occupation forces.” The same document accused Israeli Security Forces of killing Israeli civilians during the attack: “Video clips taken on that day – Oct. 7 – along with the testimonies by Israelis themselves that were released later showed that the Al-Qassam Brigades’ fighters didn’t target civilians, and many Israelis were killed by the Israeli army and police due to their confusion.”

270. The Commission notes that these statements contradict hundreds of individual items of visual material and witnesses’ reports that it has documented from October 2023 to January 2024. CCTV footage and footage retrieved from the bodycams of the militants clearly show members of the Hamas al-Qassam Brigades and other militants carrying out deliberate killings of civilians and mistreating and abducting civilians in all the attacked Israeli villages and towns, as well as at the Nova festival.

271. Additionally, the Commission found statements of intent to target civilians in one bodycam video recovered from the body of a Hamas fighter. In the video, which was verified by the Commission, a group of militants is driving by the residential area of kibbutz Sufa on the morning of 7 October 2023. Recognizing the area as a kibbutz, one of the fighters starts screaming to the others: “Settlement, brothers! Cars, there’re people there! They look like civilians, it’s a settlement! Let’s go inside! ... Settlers, brother, come on, enter!” In kibbutz Nahal Oz, Hamas militants filmed themselves frantically asking Israelis already in their custody where they can find other civilians. They then took Tomer Arava, a 17-year-old boy to try to lure other civilians to leave their safe rooms.

272. Statements made by Hamas leaders during and after the attack contained messages calling for the ‘liberation’ of the entire state of Israel through the acts committed on 7 October. In an announcement of the launch of the operation on 7 October 2023, the Commander of the Izz al-Din al-Qassam Brigades, Mohammed Deif, called on Palestinians in West Bank, Jerusalem and Israel to attack Israeli ‘settlers’, defined all of Israel as occupied and called on Palestinians to liberate all of Israel by killing, burning, destroying and shutting down roads: “O our people in Jerusalem, expel the occupation forces and the settlers from your Jerusalem, and destroy the walls of separation. I say to our people in the occupied Negev, the Galilee, the Triangle, Haifa, Jaffa, Acre, Lod and Ramla: Torch the earth under the feet of the plundering occupiers – kill, burn, destroy and shut down roads ... The day has come when anyone who has a gun should take it out. Now is the time. If you do not have a gun, take up your cleaver, axe, Molotov cocktail, truck, tractor or car.”

273. In another example, a senior Hamas Political Bureau leader, Ghazi Hamad, said in interview on 1 November to LBC TV that Hamas is prepared to repeat the 7 October attack again until Israel is annihilated: “Israel is a country that has no place on our land. We must remove that country, because it constitutes a security, military and political catastrophe to the Arab and Islamic nation and must be finished. We are not ashamed to say this, with full force. We must teach Israel a lesson, and we will do this again and again. The Al-Aqsa Flood is just the first time, and there will be a second, a third, a fourth, because we have the determination, the resolve and the capabilities to fight. Will we have to pay a price? Yes, and we are ready to pay it. We are called a nation of martyrs, and we are proud to sacrifice martyrs.” Hamad also stated that, as Palestinians are the victims of the occupation, everything that happened on 7 October 2023 was justified: “The existence of Israel is illogical. The existence of Israel is what causes all that pain, blood and tears. It is Israel, not us. We are the victims of the occupation. Period. Therefore, nobody should blame us for the things we do. On October 7, October 10, October 1,000,000 – everything we do is justified.”

274. In relation to taking hostages, Hamas and other militants also publicly and repeatedly stated their intent to take civilian hostages. On 8 October 2023, Mahmoud

Mardawi, a senior political leader of the group, stated that the Israeli hostages “will be used as a strategic card ... to curb the occupation’s aggression”. On 9 October 2023, in an interview with the Associated Press, Ali Barakeh, a political leader of Hamas, claimed that one of the objectives of the attack was to take hostages: “We were shocked by the colossal collapse (of Israel’s army). We planned and expected to win; enter the settlements and get what we wanted and take hostages. But this army was a paper tiger.” Moreover, a London-based Arabic international newspaper Asharq Al-Awsat reported, based on sources close to the leadership of the al-Qassam Brigades, that during the incursion the al-Qassam leadership ordered its militants involved in the fighting with the Israeli Security Forces to occupy the Israeli army as much as possible so that the fighters in the settlements could take the maximum number of hostages. On 29 October 2023, Yahya Sinwar, the leader of Hamas in Gaza, issued a statement to Israel concerning the release of hostages. He stated that Hamas was ready for a deal that would involve the release of all Palestinian prisoners in Israeli prisons in exchange for the release of all Israeli hostages held in Gaza.

275. In relation to sexual violence, in the document “Our Narrative... Operation Al-Aqsa Flood” Hamas also rejected all accusations that its forces committed sexual violence against Israeli women. It states: “The suggestion that the Palestinian fighters committed rape against Israeli women was fully denied including by the Hamas Movement.” While the Commission was not able to reach a definitive conclusion with regards to rape, it verified information concerning the deliberate targeting of civilian women, including the killing, abduction and abuse of women, as well as the desecration of women’s bodies, sexual violence and other gender-based crimes. The Commission documented several cases where these crimes, including gender-based crimes, were deliberately carried out with brutal violence.

IV. Legal Analysis

A. Introduction

276. The Commission laid out the applicable international legal framework in the Occupied Palestinian Territory and in Israel in its four previous reports and in its terms of reference.⁸³ The Commission reiterates that the Occupied Palestinian Territory, including East Jerusalem and Gaza, and the occupied Syrian Golan are currently under belligerent occupation by Israel, to which international humanitarian law applies concurrently with international human rights law. The Commission applies international humanitarian law to the conflict between Hamas and other Palestinian armed groups in Israel, and notes that international human rights law applies in Israel concurrently.

277. The conflict between Hamas military wing and other Palestinian armed groups, on the one hand, and Israel, on the other, constitutes an armed conflict to which international humanitarian law applies. During an armed conflict, international human rights law applies concurrently. A fundamental principle of international law is that unlawful action by one party to an armed conflict does not justify unlawful action by another party. The Commission has previously found that the Israeli occupation of Palestinian territory is unlawful. Palestinians therefore have a right to oppose that unlawful occupation but in doing so they must act in accordance with international law, including international humanitarian law and international human rights law. The unlawfulness of the Israeli occupation does not justify unlawful action by Palestinians in resistance. Equally, unlawful action by Palestinians opposing the occupation does not justify unlawful action by Israel.

⁸³ https://www.ohchr.org/sites/default/files/2022-01/TORs-UN-Independent_ICI_Occupied_Palestinian_Territories.pdf

B. War crimes

278. In relation to all incidents investigated by the Commission that took place in villages and towns and at the Nova festival, the Commission concludes on reasonable grounds that members of Hamas and of other Palestinian armed groups were aware that the victims were civilians taking no active part in the hostilities and that, in the case of Nahal Oz military outpost, several victims were soldiers who were *hors de combat*. The Commission also concludes on reasonable grounds that nevertheless those members of the armed groups proceeded to target and attack these protected persons.

The war crime of intentionally directing attacks against civilians

279. Where members of Palestinian armed groups targeted civilians and caused deaths and injuries, the Commission concludes on reasonable grounds that members of Hamas military wing and of other Palestinian armed groups committed the war crime of intentionally directing attacks against civilians not taking any direct part in the hostilities.

The war crime of murder

280. The Commission finds that members of Hamas military wing and of other Palestinian armed groups intentionally shot and killed residents of kibbutzim and other civilian locations who were not taking any direct part in the hostilities, including women, young children and teenagers, and older people. This pattern was identified in all locations investigated by the Commission, including kibbutzim Be'eri, Nir Oz, Alumim, Mefalsim, Kfar Aza and Nahal Oz, Sderot, Zikim beach, the Nova festival and road 232. The Commission concludes on reasonable grounds that members of Hamas military wing, and of other Palestinian armed groups have committed the war crime of murder.

281. The Commission investigated an incident involving the shooting and killing of unarmed Israeli female soldiers who were in civilian clothing at the time of the attack on 7 October 2023, in the Nahal Oz outpost. The Commission finds on reasonable grounds that, in relation to unarmed soldiers who were wounded when shot at and killed, the war crime of murder against a soldier *hors de combat* was committed.

282. The Commission finds on reasonable grounds that members of Hamas military wing and of Palestinian Islamic Jihad committed the war crime of murder when they intentionally targeted civilians through the launching of rockets and mortars from Gaza into Israel, which resulted in the killing of civilians in Israel on 7 October and in the weeks that followed.

The war crime of violence to life and person (cruel treatment and torture)

283. The Commission finds that members of Hamas military wing and of other Palestinian armed groups severed body parts and set houses on fire while civilians were still inside. Members of Hamas military wing and of other Palestinian armed groups intentionally set civilians' houses on fire, knowing that the inhabitants were hiding in the safe rooms. This caused the inhabitants in the safe rooms to suffocate due to the fire smoke. In one instance investigated by the Commission, three children suffocated to death from the smoke.⁸⁴ The Commission finds reasonable grounds to conclude that, in addition to the war crime of murder, victims were subjected to cruel treatment amounting to the war crime of torture in several locations.

284. In relation to 17-year-old Tomer Arava, who was captured by members of the Al-Qassam Brigades of Hamas and forced to lure other families out of hiding and who was later found dead,⁸⁵ the Commission finds on reasonable grounds that, in

⁸⁴ See para 172 above.

⁸⁵ See paras 181-187 above.

addition to the war crime of murder committed by unknown persons, the war crime of cruel treatment was committed by members of the Al-Qassam Brigades.

285. In relation to a Thai national from Nir Oz who was repeatedly attacked with a garden hoe while lying on the ground, the Commission finds these acts, in addition to the war crime of murder, to constitute the war crime of torture.

The war crime of outrages upon personal dignity

286. The Commission notes at the outset that the war crime of outrages upon personal dignity can be committed against the dead.⁸⁶ Parties to a conflict must take all possible measures to prevent the bodies of the dead from being despoiled. The mutilation of dead bodies is prohibited.⁸⁷

287. The Commission finds that members of Hamas military wing and of other Palestinian armed groups committed several specific acts against the bodies of victims, including the burning of bodies and the decapitation of bodies, that constitute the war crime of outrages upon personal dignity. The Commission also finds that the act of recording the desecration of bodies, including taking photos/recording while standing on the head of a dead person and mutilating the bodies of victims, including by stabbing and gunshots, constitutes outrages on personal dignity.

288. The Commission highlights that, in several cases it investigated involving the abduction of people or bodies from Israel to Gaza, those abducted, including bodies of deceased persons, were subjected to degrading and humiliating treatment,⁸⁸ constituting the war crime of outrages upon personal dignity.

289. The Commission also confirms the gendered nature of the crime of outrages upon personal dignity in several cases, in particular humiliating and degrading treatment, including any form of indecent assault and coerced intimacy, against women while captured in southern Israel and brought to Gaza.

290. Other gender-based crimes of outrages upon personal dignity include the desecration of undressed bodies, several of which were made visible in public and recorded while the acts were celebrated by the perpetrators and/or bystanders. The Commission particularly notes that the egregious nature and militants' explicit lack of respect for the dignity of a woman who was paraded semi-naked in the back of truck in Gaza⁸⁹ after she was killed and the recording and dissemination of the desecration of the body of a stripped man in kibbutz Nahal Oz,⁹⁰ such acts being without any kind of consideration for the deceased and their family members.

War crime of rape and other forms of sexual violence

291. In relation to rape and other forms of sexual violence, the Commission concludes on reasonable grounds that perpetrators committed sexual violence on 7 October in southern Israel, including at the Nova festival, on road 232, at the Nahal Oz military outpost and at kibbutzim Re'im, Nir Oz and Kfar Aza. This conclusion is based, among other factors, on the state and position in which many of the bodies of victims were found. Due to the lack of evidence concerning the circumstances of the deaths of the victims, the Commission is unable to determine the exact identity of the perpetrators and whether Hamas military wing, other Palestinian armed groups or civilians from Gaza were responsible for these crimes.

292. In the case where a male victim was found with a gun in his anus, the Commission could not confirm whether the act was committed against the victim

⁸⁶ ICC, Elements of Crimes, art.s 8(2)(b)(xxi) and 8(2)(c)(ii).

⁸⁷ ICRC Customary International Humanitarian Law, Volume I: Rules, rule 113; IAC: GCIV, art. 16; API, art. 34(1); NIAC: APII, art. 8.

⁸⁸ See paras 60-61 above.

⁸⁹ See para 157 above.

⁹⁰ See paras 150-151 above.

before or after death. If the act was committed before death, it would constitute the war crimes of torture and rape. Notwithstanding if it was committed before or after death, the act constitutes the war crime of outrage upon personal dignity.

The war crime of destroying or seizing the property of an adversary

293. The Commission finds that hundreds of structures were damaged or destroyed in Israeli kibbutzim and towns, including Be'eri and Nir Oz, by members of Hamas and other Palestinian armed groups.⁹¹ The Commission finds that members of Hamas military wing and of other armed groups intentionally set fire to houses that belonged to civilians⁹² in the absence of any military objectives.

294. The Commission finds on reasonable grounds that members of Hamas and of other Palestinian armed groups committed the war crime of destroying the property of civilians, particularly their houses, without any requirement of military necessity.

The war crime of taking hostages and inhumane treatment

295. The Commission finds, on reasonable grounds, that 252⁹³ people, including 36 children, 71 civilian women, 124 civilian men and more than 20 soldiers, were abducted to Gaza on 7 October 2023.⁹⁴ Those abducted were taken to Gaza and detained there. The Commission refers to statements made by Hamas with demands for release of Palestinian prisoners from Israeli prisons in return for the release of Israeli hostages.⁹⁵ From 7 October until the date of the completion of this report on 31 May 2024, 128 hostages have been released or rescued. This number includes bodies retrieved of killed hostages. 128 hostages, including those abducted prior to 7 October, remain in captivity alive or dead.⁹⁶

296. In relation to one case in kibbutz Be'eri, where al-Qassam Brigades and other armed groups captured 15 civilians with the aim of demanding safe passage to Gaza, the Commission finds that this constitutes the war crime of taking hostages. The Commission also verified that, in an attempt to surrender, the Hamas military wing commander used an Israeli hostage to shield himself from potential attack as he walked out of the house. The Commission finds on reasonable grounds that the commander committed the war crime of using a civilian as a human shield.

297. The Commission found that the war crime of taking hostages was committed, in most cases together with outrages on personal dignity and inhumane treatment, including sexual and gender based violence, such as assault, harassment and intimidation against women while abducted in Israel and taken to Gaza.

298. The Commission finds on reasonable grounds that members of Hamas military wing and of other Palestinian armed groups have committed the war crime of taking hostages.

C. Violations of international humanitarian law

299. In relation to international humanitarian law, the Commission emphasises that the three fundamental principles are distinction, precaution and proportionality. The Commission concludes that Hamas and other Palestinian armed groups failed to adhere to the principle of distinction in relation to their attacks against the civilian population not taking part in hostilities, including murder, and this amounts to a grave violation of international humanitarian law.

⁹¹ See paras 46 and 67 above.

⁹² See para 41 above.

⁹³ <https://www.gov.il/en/departments/news/swords-of-iron-war-in-the-south-7-oct-2023>.

⁹⁴ Ibid.

⁹⁵ See para 274 above.

⁹⁶ <https://www.gov.il/en/departments/news/swords-of-iron-war-in-the-south-7-oct-2023>.

300. The Commission also finds on reasonable grounds that members of Hamas military wing and of Palestinian Islamic Jihad violated the principle of distinction when they intentionally launched rockets and mortars from Gaza into Israel, targeting civilians in Israel on 7 October 2023 and in the subsequent weeks.⁹⁷ Furthermore, due to the sheer volume and imprecise nature of the rockets, the Commission finds on reasonable grounds that members of Hamas military wing and of Palestinian Islamic Jihad violated the norm of customary international humanitarian law which prohibits the use of weapons which are by nature indiscriminate.⁹⁸

301. The Commission finds on reasonable grounds that Israeli Security Forces, under the command of Brigadier General Barak Hiram, failed to adhere to the principles of distinction, precaution and proportionality when they fired tank shells at a house in Be'eri, knowing that there were civilians inside, after an RPG rocket was fired at the forces from inside the house.

302. The Commission highlights the established norm of international humanitarian law that grants special protection to civilians and, specifically, to women and children.⁹⁹ Women are accorded special protection and respect in terms of treatment due to their sex.¹⁰⁰ Children and older persons affected by armed conflicts are also entitled to special protection and respect.¹⁰¹

303. The Commission finds that members of Hamas military wing and of other Palestinian armed groups failed to adhere to this norm in relation to these groups, particularly in kibbutzim Be'eri, Nir Oz, Kfar Aza, Mefalsim, Alumim and Nahal Oz and in Sderot and Zikim beach. The Commission documented instances where members of these groups were targeted, killed, mistreated and abducted. In relation to the special protection for women, the Commission particularly notes the cases where women were deliberately killed in Mefalsim and Alumim, while they were trying to escape from the perpetrators, and they were assaulted in the course of their abduction. In relation to older persons the Commission particularly notes the intentional killing of eight older people at a bus-stop in Sderot. In relation to children, the Commission particularly notes the intentional killing of five teenagers at Zikim beach.

D. Command responsibility

304. The Commission emphasises that military commanders and political leaders may be held criminally responsible for the acts of subordinates who were under their effective command and control. There are two circumstances under which criminal liability arises by virtue of command responsibility: where subordinates commit criminal acts pursuant to the direct orders of their commanders; where commanders who know or ought to know about the actual or possible commission of criminal acts by subordinates fail to take measures to prevent the subordinates from committing those acts.

305. The Commission has established the names and identities of individuals responsible for the planning, ordering, and execution of the attack on Israel on 7 October 2023. The Commission finds, on reasonable grounds, that these individuals either ordered the commission of operations and acts that constituted war crimes of the nature described in this report or, at the very least, knew or should have known

⁹⁷ ICRC Customary International Humanitarian Law, Volume I: Rules, rules 1, 7, 11, 12 and 71.

⁹⁸ ICRC Customary International Humanitarian Law, Volume I: Rules, rule 71, p. 244. See also API, art. 51(2) and (4); Rome Statute, art. 8(2)(b)(xx).

⁹⁹ E.g., for a comprehensive overview of the IHL rules regarding the specific treatment of women, see ICRC, *Addressing the Needs of Women Affected by Armed Conflict: An ICRC Guidance Document*, ICRC, (2004).

¹⁰⁰ ICRC Customary International Humanitarian Law, Volume I: Rules, rule 134; IAC: GCIV, art. 27; API, art. 76(1); NIAC: common art. 3 to the Geneva Conventions; APII, arts. 4 and 5.

¹⁰¹ ICRC Customary International Humanitarian Law, Volume I: Rules, rules 135 and 138.

that subordinates under their effective command and control were committing or were likely to commit crimes in Israeli kibbutzim and other locations and failed to take any measures within their power to prevent or repress the commission of such crimes. The Commission concludes on reasonable grounds that the individuals who bear the most responsibility for the international crimes, violations and abuses that it has investigated in this conference room paper include senior members of the political and military leadership of Hamas and other Palestinian armed groups and of the Palestinian Joint Operations Room. The Commission will continue its investigations focusing on individual criminal responsibility and command responsibility.

E. Violations and abuses of international human rights law

306. The Commission concludes on reasonable grounds that serious violations and abuses of international human rights law were committed by members of Hamas military wing and of other Palestinian armed groups in Israel, and by civilians from Gaza taking part in hostilities, in the attack on 7 October 2023. The violations include the violations of the right to life¹⁰² and the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment.¹⁰³ Furthermore, the Commission also finds on reasonable grounds that members of Hamas military wing and of other Palestinian armed groups violated the right to liberty and security of the civilians captured and detained¹⁰⁴ and unlawfully interfered with the civilians' privacy, family and home.¹⁰⁵

307. Serious human rights violations have been committed against women and girls, including several acts that deprive women and girls of fundamental human rights, such as the right to life, the right to be free from cruel, inhuman and degrading treatment, and the right to liberty and security of person.¹⁰⁶ Israeli women have been subjected to gender-based violence such as physical, sexual and psychological violence, including threats of such acts, coercion and arbitrary deprivation of liberty. The Commission reiterates that violence against women and girls, according to General Recommendation 30 of the Committee on the Elimination of Discrimination against Women, is a form of discrimination prohibited by the Convention on the Elimination of all forms of Discrimination against Women and a violation of human rights.¹⁰⁷

308. Serious human rights violations were also committed against children on 7 October 2023, in contravention of the special protection accorded to children and their rights under the Convention on the Rights of the Child. Acts committed against children detailed in this report amount to violations of the right to life, survival and development, and may constitute torture or other cruel, inhuman or degrading treatment, including all forms of physical and mental violence.¹⁰⁸ Where children were also made to witness cruel and inhuman treatment, including killing and injuring, of their family members, this constitutes a violation of the respect for the family environment under the Convention on the Rights of the Child.¹⁰⁹ The Commission highlights that all actions concerning children must take into account, as a primary consideration, the best interests of the children.¹¹⁰

¹⁰² ICCPR, art. 6(1).

¹⁰³ ICCPR, art. 7.

¹⁰⁴ ICCPR, art. 9(1).

¹⁰⁵ ICCPR, art. 17(1).

¹⁰⁶ General recommendation 19, paras 6 and 7.

¹⁰⁷ General recommendation 30, para.34.

¹⁰⁸ CRC, arts. 6 and 37. See also ICCPR, arts. 6(1) and 7.

¹⁰⁹ CRC, arts. 9 and 11.

¹¹⁰ Evaluating digital open-source imagery: a guide for judges and fact-finders, art. 3.