



ATT - Israel's Working Paper

Diversion of Arms and Gender-based Violence

Diversion of Arms to Non-State Actors

- The Arms Trade Treaty (ATT) is an international treaty that regulates the international trade in conventional arms. One of its main objects is to prevent and eradicate the illicit trade in conventional arms and prevent their diversion.
- According to Article 11 of the ATT, State Parties are required to take measures to prevent the diversion of conventional arms covered under the treaty, including through risk assessment and mitigation measures. Furthermore, State Parties are required to address diversions that were detected, and are encouraged to share relevant information with one another on effective measures to address diversions.
- The diversion of arms, especially to Non-State Actors (NSAs), can have devastating consequences and is a critical issue in the international security arena. In some cases, diversion can be a key factor in the escalation of armed violence, including gender-based violence and violence against children in violation of international law. Article 7(4) calls on states to take into account the risk of conventional arms covered under the treaty being used to "commit or facilitate serious acts of gender-based violence or serious acts of violence against women and children".

Gender-based Violence and Violence against Children in the ATT

- The Arms Trade Treaty was the first legally binding international instrument to acknowledge the link between gender-based violence, violence against children and arms trade.
- Article 7(4) of the ATT requires that State Parties, in making their export assessment, take into account the risk of the conventional arms covered under Article 2 (1), or of the items covered under Article 3 or Article 4, being used to commit or facilitate, in violation of international law, serious acts of gender-based violence and violence against children.



- Following this, in 2019, the Fifth Conference of States Parties, examined different issues related to gender-based violence, and adopted a number of decisions. The 2024 Conference of States Parties encouraged Parties to keep the risk of conventional arms being used to commit or facilitate serious acts of gender-based violence as an important topic of attention, and to initiate the discussion and exchange of information and good practices on this topic in the following cycles.

Diversion of Arms in the Middle East

- Unfortunately, the diversion of arms to NSAs, and specifically terror organizations, is not a theoretical issue, especially in the Middle East. Regrettably, conventional arms have been illicitly traded and proliferated throughout the Middle East in unprecedented quantities. These weapons find their way into the hands of terrorist organizations, such as Hamas, Hezbollah, Palestinian Islamic Jihad and others.
- Following the October 7th 2023 massacre, large quantities of conventional arms were found in the possession of Hamas, a Jihadist Palestinian terror group that explicitly and openly admits it seeks to annihilate the State of Israel, as well as other terrorist groups in the Gaza Strip who participated in the massacre. Many of these arms were illicitly transferred to Hamas and other groups and were used in the brutal terror attack that was perpetrated against Israeli citizens and citizens of other nationalities.

The October 7th Massacre

- On October 7th 2023, Hamas brutally murdered nearly 1200 persons, including infants, children, women and men, among them Jews, Arabs and foreign nationals. Innocent civilians were tortured, raped and beheaded. Hamas deliberately targeted civilians, booby-trapped corpses and houses, and systematically burned homes to the ground with whole families still alive inside. Hamas took over 250 hostages, including entire families, infants, elderly, Holocaust survivors, the sick and persons with disabilities - some of whom have since been executed, tortured, sexually abused and starved in captivity.



On October 7th 2023, Hamas committed horrific war crimes and crimes against humanity.

Gender-based Violence by Hamas

- Footage that came out of the Gaza strip on October 7th was blunt - Hamas terrorists paraded captured women naked in the streets of Gaza as war trophies, while onlookers cheered and jeered.
- Shortly after, multiple reports of severe acts of sexual violence that took place in Israel that day started to mount, as well as of grave sexual violence perpetrated against the hostages taken to Gaza, some of whom are held to this day.
- Following these reports, the Special Representative of the UN Secretary-General (SRSG) on Sexual Violence in Conflict, Ms. Pramila Patten, led an official visit to Israel in January-February 2024, supported by a team of technical experts. The objective of the mission was to gather, analyze and verify allegations of conflict-related sexual violence reportedly committed during the brutal, Hamas-led terror attacks and in its aftermath. The mission team comprised experts from different disciplines, including forensic specialists. It conducted meetings with Israeli authorities and civil society, among them first responders to victims of the October 7th massacre, as well as Israeli security forces. The team also visited four locations affected by the October 7th attacks in relation to which reports of sexual violence had emerged. The mission team reviewed over 5,000 photographic images and conducted an examination of approximately 50 hours of footage of the attacks, in a concerted effort to identify indications of conflict-related sexual violence.
- Based on the information gathered by the mission team, the SRSG determined in her Mission Report (published on 4 March 2024¹) that there was clear and convincing information that sexual violence, cruel, inhuman and degrading treatment has been

¹ Available in <https://www.un.org/mwg-internal/de5fs23hu73ds/progress?id=ok-lygLZT-T69qbf4cMF7ZuS-Rf5yRcfrXfhP3Se3go.&dl>



committed against hostages and has reasonable grounds to believe that such violence may be ongoing against those still held in captivity. The multiple testimonies of women and girls released from Hamas captivity in Gaza raise harrowing accounts of severe sexual violence, constituting crimes under international law.

The report also found reasonable grounds to believe that conflict-related sexual violence occurred in multiple locations during the October 7th attacks, including rape and gang-rape in at least three locations, namely: the Nova music festival site and its surroundings, Road 232 in southern Israel, and Kibbutz Re'im. In most of these incidents, victims first subjected to rape were then killed, and at least two incidents relate to the rape of women's corpses. The report also found a pattern of victims, mostly women, found fully or partially naked, bound, and shot across multiple locations.

Substantial information that Israel has gathered is consistent with the Special Representative's findings. The widespread nature of the incidents within a very confined timeframe, as well as dozens of testimonies, point to the premeditated nature of the heinous acts of sexual and gender-based violence.

Based on all these findings, it is clear that Hamas perpetrated systematic sexual violence as a weapon of war. The arming of thousands of Hamas terrorists with weapons illicitly diverted to the terrorist group, contributed to the horrific events on October 7th and during the hostages' captivity.

Violence and related acts against children by Hamas and other Terrorist Groups

- During the October 7th massacre, Hamas and other terrorist organizations in Gaza murdered and maimed children, including infants and babies, often together with their parents, including by executing them from close range and by burning the houses they were in. They also committed other unspeakable acts of cruelty against children, amounting to physical and psychological torture, including murdering parents and close relatives in front of children.
- Among the nearly 250 hostages abducted by Hamas on October 7th, dozens were children, in all age groups between infants and teenagers.



- Throughout the War in the Gaza Strip, Hamas and other terror groups have systematically used children in Gaza as fighters as part of their military effort.
- In addition, Hamas and other terrorist groups in Gaza, as well as Hezbollah and other terrorist groups in the Middle East, systematically use the civilian population as human shields, including children.
- Another strategy used by Hamas and other terror groups in Gaza, as well as by Hezbollah and other terror groups in the region, has been the systematic and deliberate rocket attacks against Israeli population centers, including where children and education institutions are present.
- They did so using weapons illicitly diverted into Gaza, Lebanon, Yemen and other places. A painful example is a deadly attack committed by Hezbollah, from Lebanon, against a school in the town of Majdal Shams on July 27th 2024, where the launch of a 'Falaq-1' rocket exploded in an open football pitch killed 12 children and injured many others. The Falaq-1 is a rocket manufactured and developed outside Lebanon, and Hezbollah openly admitted throughout the war that it has been using it to launch attacks against towns in Israel.
- Since October 2023 the Houthi terror group has launched missile and UAV attacks against Israel, as well as disrupting maritime security in the Red Sea and thus impacting global trade. The Houthis have launched indiscriminate attacks from Yemen, aiming to kill and cause damage to the civilian populace in Israel. On December 19th 2024 a ballistic missile launched from Yemen towards a school in the town of Ramat Gan in central Israel, caused massive damage to the facility. Throughout the past 15 months the Houthis have launched a range of missiles, all illegally proliferated into their hands in gross violation of United Nations Security Council embargoes.

Call for Action

- The extreme acts of gender-based violence and violence against children conducted by Hamas and other terror groups in Gaza, witnessed on October 7th and during the War



that followed, including against hostages kept in Gaza, as well as by Hezbollah, the Houthis and other terror groups in the region, represent the horrific end result of what Article 7(4) and Article 11 aim to prevent. These heinous acts were facilitated and made possible by the illegal diversion of arms to terrorist groups, and clearly demonstrate the immense damage and loss of life that the illicit trade of conventional arms can cause.

- The diversion of conventional arms to the hands of Hamas, Hezbollah and other terrorist groups is not only a growing challenge in the Middle East but is a global threat. The international community must find a comprehensive strategy to combat this vile and dangerous trend. All states must adhere to responsible practices of arms transfers, so that diversion does not illicitly allow the flow of arms to terror groups and their patron States.
- We call for further discussions of the Parties of the ATT, in order to prevent the diversion of conventional arms to terrorist organizations, and to ensure that conventional weapons under the scope of this Treaty are not used to commit or facilitate serious acts of gender-based violence and violence against children in violation of international law.