

Eichmann 2.0: Israel must try Hamas terrorists for their crimes against humanity



Nazi criminal Adolf Eichmann is seen standing in his bullet proof glass box as the charges against him are read during judicial proceedings in the Beit Ha'Am building in Jerusalem on April 12, 1961.

by Phyllis Chesler

Israel will likely be victorious in its war of self-defense against the Hamas terrorists who perpetrated the Oct. 7 massacre. But the expected victory will not truly resolve the situation.

There will have to be further medical and psychological support for the displaced and resilient but traumatized Israelis. It will take time to rebuild devastated communities, homes and families. Israel will have to work to fortify its borders.

But justice is also required. Truth-telling is essential. The world must understand what happened.

This is the main reason Israel must prosecute individual Hamas terrorists in a trial in Jerusalem, just as Israel famously tried Adolf Eichmann, and just as the victorious Allies tried Nazis for their crimes against humanity.

In 1945, in Nuremberg, the victorious Allies tried individual Nazis for their crimes against humanity. The Nazis had proudly photographed many of their own evil deeds, and the prosecution used that evidence. Hamas has done likewise in its attack, providing ample evidence for similar convictions.

In 1960, [Israel captured Eichmann](#), one of the major organizers of the Holocaust, in Argentina. They put him on trial the following year, but in Jerusalem, not the Hague. It was the right decision. Unlike in the Nuremberg trials, many Holocaust survivors testified against Eichmann. Although Israel has no death penalty, the court found Eichmann guilty and hanged him.

How might Israel put Hamas on trial? Like the U.S., Israel is not a state member of the International Criminal Court. It would therefore not be suitable for Israel to ask the United Nations, a body that created this Court, to adjudicate the Islamist genocide of the Jewish people.

However, the definition of what constitutes “crimes against humanity” under International law is both clear and relevant to the Oct. 7 massacre and other Hamas atrocities.

Under international law, [crimes against humanity](#) comprise a certain set of criminal actions whenever they are “committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.”

The actions in this category include murder; “extermination;” rape; “enforced disappearance of persons;” false imprisonment; torture; ethnic persecution; “deportation or forcible transfer

of population;" enforced disappearances; apartheid; and "other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health."

The Iranian-backed Hamas, which has misgoverned Gaza since taking power in a 2006 election, has committed all of these crimes against Jewish Israelis, and many more, including on Oct. 7. It has also committed crimes against Palestinians, such as recruiting and indoctrinating Gazan children into martyrdom operations; building its military command posts and locating its weaponry under hospitals, schools and mosques in Gaza; [demanding that Gazan civilians remain in place as human shields](#); and apparently even [shooting them down when they attempt to flee](#).

There are many wild assertions in the West about Israel's conduct, as if to draw a moral equivalency. But Israelis did not pre-emptively go into Gaza to murder Arabs. They do not reciprocate Hamas's desire, stated in its founding charter, to genocidally exterminate all Jews. In fact, 20 percent of Israeli citizens are Arabs.

Israel has also never "enslaved," "deported" or "transferred" Gazan Arabs. In fact, Israel left Gaza entirely in 2005. Israel has not "falsely imprisoned" any Gazan without a trial. Israeli forces have never entered Gaza to "torture," "rape" or "kidnap" Gazan civilians, nor have they filmed themselves committing such atrocities.

In order for Jews to be safe again within the international community, at least for another 50 years, it is crucial to prosecute Hamas. It is only right to put the truth on display, and to sway whatever hardened hearts can be swayed.

First published in [The Hill](#).