



Submission to the Working Group on Enforced and Involuntary Disappearances

Call for Submission¹: Thematic Report on Enforced Disappearances and Memorialization

Submitted by October 7 Justice Without Borders (O7J)

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Contact: Yael@October7Justice.org

Website: October7justice.org

¹ OHCHR, *Call for Submissions: Thematic Report on Enforced Disappearances and Memorialization* (March 2026), <https://www.ohchr.org/en/calls-for-input/2026/call-submissions-thematic-report-enforced-disappearances-and-memorialization>

I. Introduction

October 7 Justice Without Borders (O7J) is an Israel-based public-interest law firm dedicated to securing justice and accountability of perpetrators and their accessories on behalf of **over 440 victims from 18 different crime sites at the outset of the October 7 atrocities, including 42 hostages – both alive and killed**. O7J was established as an emergency response to address a critical global accountability gap.

We lead *pro bono* strategic litigation on behalf of victims of core international crimes, including gross or systematic violations of international human rights. We provide victim-centred legal representation before international and domestic courts and human rights mechanisms, ensuring that the voices of survivors, bereaved families, and released hostages and their families, shape the global record and the needed legal response based on universal values and unconditional humanity. We are independent and non-political and do not receive any government funding. Our mission is to represent victims in their internationally recognized rights to **truth, justice, reparations, and non-repetition** (“the Joinet Principles”). This includes submitting the present statement aimed to advance the mandate of the Working Group.

The present submission responds to the 2026 Call for Submissions for the thematic report on enforced disappearances and memorialization². It seeks to assist the Working Group by examining systemic violations perpetrated by NSAGs, with particular reference to the October 7, 2023 attacks, the systematic application of enforced disappearance by six Palestinian militias as part of the attack, violating international Human Rights Law, International Humanitarian Law and International Criminal Law. The present submission also would like to draw the attention of the Working Group to the report on *Hostage-Taking as Torture* by the Special Rapporteur on torture, Alice Jill Edwards³, to which O7J contributed. The report underscored the similarities between hostage-taking and enforced disappearance, applying a similar international legal framework sanctioning such grave and gross violations.

Representing victims of enforced disappearance by Non-State Armed Groups (NSAGs), proxies of States, O7J is in a unique position to witness the importance of memorialisation,

² OHCHR, *Call for Submissions: Thematic Report on Enforced Disappearances and Memorialization* (March 2026), <https://www.ohchr.org/en/calls-for-input/2026/call-submissions-thematic-report-enforced-disappearances-and-memorialization>

³ Special Rapporteur on Torture, *Torture and other cruel, inhuman or degrading treatment or punishment: Hostage-taking as torture*, UN Doc. A/HRC/58/55 (Feb. 2025). , available here <https://www.ohchr.org/en/documents/thematic-reports/ahrc5855-torture-and-other-cruel-inhuman-or-degrading-treatment-or>]

truth, and reparations; especially situations where the perpetrators are NSAGs – which leaves even greater room for legal uncertainty and impunity. **This is especially crucial at this moment as there is a disturbing global trend in which hostage-taking and enforced disappearance is increasingly weaponized by NSAGs as a tactic of warfare and coercion, destabilizing international and regional peace and security at a relatively low cost with little means [see for e.g. March 2025 report by Hostage Aid Worldwide warned]⁴.**

Faced with systemic and widespread violations, memorialization is essential for stabilization and reconstruction during and after armed conflict. It is a cornerstone of transitional justice, safeguarding the right to truth, preserving victims' dignity, supporting accountability, preventing impunity, and promoting long-term societal recognition, non-repetition, and the transition from war to peace. Established memorials such as Yad Vashem in Jerusalem and the Washington Holocaust Museum, along with initiatives like the Ben Ferencz Initiative, demonstrate how memorialization can combine remembrance with research aimed at preventing future atrocities. The Rwandan Genocide Memorial Museum similarly anchored its approach in lessons learned from Holocaust memorials, illustrating how past experiences can guide effective commemoration and education.

Memorialization in this context is not merely symbolic. It is deeply embedded in ongoing social and political theories of change, including within Israel itself. Public and parliamentary discussions concerning the appropriate legal and historical characterization of the October 7 events — including debates over whether the attacks should be formally designated as a “massacre”⁵— demonstrate that memory is contested and manipulated, and that the language of memorialization carries legal, political, and moral consequences. These debates underscore that memorialization is not a neutral act but a site of social discord, narrative struggle, and identity formation. In such contexts, ensuring that memorialization processes are grounded in verified facts and victims' experiences becomes essential to preventing denial, distortion, or minimization.

Specifically, this submission aims to:

(1) Demonstrate that the October 7 atrocities involved core elements of enforced disappearance, including arrest, detention, abduction, concealment of fate or whereabouts, and denial of information to families⁶; (2) certify memorialization is particularly vital in contexts where legal classification is contested, delayed, or denied; (3) present memorialization as a practical and rights-based safeguard of truth, evidence, and victim recognition, rather than as a purely

⁴ Hostage Aid Worldwide, *Global Hostage Report 2024: Data, Insights, and Trends* (Version 1.1, March 2025) <https://hostageaid.org/wp-content/uploads/2025/03/Hostage-Aid-Global-Hostage-Report-2024-Version-V1.1.pdf>

⁵ ‘Over my dead body’: PM’s office drops ‘massacre’ from Oct. 7 memorial bill, sparking outrage, *The Times of Israel* (12 February 2026) <https://www.timesofisrael.com/over-my-dead-body-pms-office-drops-massacre-from-oct-7-memorial-bill-sparking-outrage/>

⁶ International Convention for the Protection of All Persons from Enforced Disappearance, adopted 20 December 2006, entered into force 23 December 2010, 2716 UNTS 3, art. 2.

symbolic or commemorative act, and is also crucial for stabilization and reconstruction; (4) identify the legal, operational, social, and security challenges confronting memorialization efforts; and 5) highlight that fair trials have long underpinned memorialization, from the Nuremberg Trials to decades of domestic, international, and third-country case law, recognized by UN human rights mechanisms.

Based on our direct experience representing victims of the October 7 atrocities, O7J has observed the profound challenges and urgent needs in ensuring meaningful memorialization. These recommendations reflect practical and legal measures necessary to protect truth, uphold victims' rights, and prevent manipulation or erasure of memory during and after conflict:

RECOMMENDATION 1: Clarify that non-State armed groups bear obligations under international law for reparations, memorialization, evidence preservation, and victim recognition.

RECOMMENDATION 2: Expand responsibility for memorialization beyond the territorial State to include countries of nationality, universal-jurisdiction States, international and regional organizations, and human-rights institutions.

RECOMMENDATION 3: Provide guidance on survivor-centered memorialization during ongoing conflict, ensuring secure preservation of evidence, sites, and testimonies while protecting survivors and witnesses from harm.

RECOMMENDATION 4: Systematically collect, document, and preserve evidence of gross human rights violations following forensic, gender-sensitive, and internationally recognized standards.

RECOMMENDATION 5: Ensure memorialization processes prioritize survivor safety, dignity, informed consent, and culturally sensitive practices to prevent retraumatization.

RECOMMENDATION 6: Balance collective and individual memory through inclusive, transparent, and participatory processes, allowing adjustments for individual victim needs.

RECOMMENDATION 7: Use fair trials, judicial records, and truth mechanisms to establish authoritative accounts of atrocities, prevent manipulation, and support societal recognition and reconciliation.

II. Legal Definitions of Enforced Disappearance & Memorialisation

Enforced Disappearance

International law has long recognized enforced disappearance as a grave and continuous human rights violation engaging multiple legal regimes. The 1992 Declaration on the Protection of All Persons from Enforced Disappearance defines in its Preamble the practice as the *arrest, detention, or abduction of a person against their will, followed by a refusal to acknowledge the deprivation of liberty or concealment of fate or whereabouts, thereby placing the individual outside the protection of the law*⁷. The Declaration affirms that enforced disappearance is a *continuing offence* for as long as the fate or whereabouts remain unclarified, underscoring the centrality of truth as a legal obligation⁸. It further requires States to prevent, criminalize, and punish enforced disappearance through effective legislative, administrative, and judicial measures. While neither Israel nor Palestine has ratified the subsequent treaty codification, the Declaration largely reflects authoritative standards informing customary international law⁹.

The prohibition of enforced disappearance is also firmly grounded in international human rights law. Articles 6, 7, 9, and 16 of the International Covenant on Civil and Political Rights (ICCPR)¹⁰ protect the right to life, freedom from torture, liberty and security of the person, and recognition before the law—rights that are inherently violated by secret detention and concealment of fate. Although the Convention Against Torture (CAT)¹¹ does not explicitly reference enforced disappearance, international jurisprudence recognizes that secret abduction, incommunicado detention, and the denial of information to families may amount to torture or cruel, inhuman, or degrading treatment¹². This is due to the severe physical and mental suffering inflicted on both victims and their relatives. Further, under international criminal law, as stated in Article 7 of Rome Statute¹³, enforced disappearance constitutes a crime against humanity when committed as part of a “*widespread or systematic attack against a civilian population*”.

Enforced disappearance, Hostage-taking & Torture.

Enforced disappearances are closely related to hostage-taking, although they are not always identical. Hostage-taking is an abhorrent and inhuman act, which is incompatible with

⁷ Declaration on the Protection of All Persons from Enforced Disappearance, GA Res 47/133, UN GAOR, 47th sess, Supp No 49, UN Doc A/47/49 (18 December 1992) preamble.

⁸ UN General Assembly, *Declaration on the Protection of All Persons from Enforced Disappearance*, GA Res 47/133, UN Doc A/RES/47/133 (18 December 1992) arts 17(1). See also Preamble (recognising the right of families to know the fate of disappeared persons).

⁹ Office of the United Nations High Commissioner for Human Rights, ‘30th anniversary of the Declaration on the Protection of All Persons from Enforced Disappearance: Declaration key to progress of international law on enforced disappearance: UN experts’ (OHCHR, 18 December 2022) <https://www.ohchr.org/en/press-releases/2022/12/30th-anniversary-declaration-protection-all-persons-enforced-disappearance>

¹⁰ International Covenant on Civil and Political Rights, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) arts 6, 7, 9, 16.

¹¹ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, opened for signature 10 December 1984, 1465 UNTS 85 (entered into force 26 June 1987).

¹² UN Human Rights Council, *Hostage-Taking as Torture*, UN Doc. A/HRC/58/55 (2025).

¹³ Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3, art 7(1).

universally accepted standards of human conduct. It is criminalised as a war crime in Rome Statute Article 8(2)(a)(viii) for IAC and Article 8(2)(c)(iii) for NIAC, prohibited in Common Article 3(1)(b) of Geneva Convention, and defined by Article 1 of the International Convention against the taking of hostages (1979) as any person who “seizes or detains and threatens to kill, to injure or to continue to detain another person (“hostage”) in order to compel a third party, namely, a State, and international intergovernmental organisation, a natural or juridical person, or a group of persons to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage”¹⁴.

Hostage-taking, as argued in Dr. Alice Jill Edwards’ report¹⁵ on Torture and Hostage-taking and October 7 Justice Without Border’s submission to the Special Rapporteur on Torture¹⁶, are tantamount to torture and other cruel, inhuman or degrading treatment or punishment. Hostage-taking, stated by the Special Rapporteur, inherently inflicts severe physical and mental suffering that can meet the threshold of torture.

Both Special Rapporteur on Torture and the Working Group on Enforced or Involuntary Disappearances¹⁷ have clarified that while hostage-taking is prohibited under international humanitarian law, it may, under certain circumstances, also constitute an enforced disappearance. This occurs where the deprivation of liberty is followed by denial of detention or concealment of fate or whereabouts, resulting in the person being placed outside the protection of the law¹⁸.

Non-State Actors & International Laws

A further distinction between hostage-taking and enforced disappearance lies in the requirement of a State nexus, as reflected in Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED)¹⁹. That is, enforced disappearance are actions carried out by officials from different branches or levels of

¹⁴ International Convention Against the Taking of Hostages, adopted 17 December 1979, 1316 UNTS 205 (entered into force 3 June 1983), art. 1(1).

¹⁵ Human Rights Council, *Torture and other cruel, inhuman or degrading treatment or punishment: hostage-taking as torture*, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Alice Jill Edwards, UN Doc A/HRC/58/55 (24 February 2025)

¹⁶ October 7 Justice Without Borders, *Hostage-Taking as Torture: Submission following UN Special Rapporteur Dr. Alice Edwards’ Call* (Submission to the UN Human Rights Council, A/HRC/58/55, December 2024) <https://lnkd.in/e2aVvACw>.

¹⁷ United Nations Working Group on Enforced or Involuntary Disappearances, *Hostage-Taking and Enforced Disappearances* (December 2024), available at: <https://www.ohchr.org/sites/default/files/documents/issues/torture/sr/cfis/hostage-taking/subm-hostage-taking-torture-un-spec-proc-4-wg-enforced-involunta-ances.pdf>

¹⁸ United Nations Working Group on Enforced or Involuntary Disappearances, *Hostage-Taking and Enforced Disappearances* (Submission to the Special Rapporteur on torture, December 2024), available at: <https://www.ohchr.org/sites/default/files/documents/issues/torture/sr/cfis/hostage-taking/subm-hostage-taking-torture-un-spec-proc-4-wg-enforced-involunta-ances.pdf>

¹⁹ International Convention for the Protection of All Persons from Enforced Disappearance, adopted 20 December 2006, UN Doc A/61/488 (entered into force 23 December 2010), art. 2.

government, or by organized groups or private individuals acting on behalf of, with the support of, or with the government's consent or acquiescence, whether direct or indirect. This is contrary to hostage-taking, where it is not limited to State actors, as Common Article 3 is applicable to Non-International Armed Conflict (NIAC), thus including NSAGs under IHL.

That is, the actions of arrest detention, abduction or other deprivation of liberty, as defined in the 1992 Declaration on Enforced Disappearance²⁰ and ICPPED²¹, must be conducted by “*State agents, or by persons or groups acting with the authorization, support or acquiescence of the State*”. International norms have long anchored the crime to State involvement, **distinguishing it from ordinary abduction or kidnapping by private actors**. The Working Group on Enforced or Involuntary Disappearances (WGEID) has consistently reaffirmed this State-linked definition, emphasizing the importance of maintaining doctrinal precision in domestic criminalization²².

At the same time, the Working Group's practice has evolved to address contemporary conflicts in which non-State actors (NSAs) exercise government-like functions or *de facto* control over territory and populations. Therefore, starting in September 2019, the WGEID has documented and transmitted individual cases of violations “tantamount to enforced disappearance” committed by such actors, without formally altering the legal definition of enforced disappearance itself²³. This practice reflects a functional, victim-centred approach under the Working Group's humanitarian mandate, enabling engagement with NSAs where individuals are placed outside the protection of the law and their fate or whereabouts are concealed. Notably, the Working Group has applied this framework to a limited number of NSAGs, including Hamas, the Taliban, and other *de facto* authorities²⁴. **The Working Group expressly confirmed that such situations may arise not only in State-attributable contexts, but also where non-State actors (NSAs) exercising de facto control engage in prolonged secret detention, in which case the conduct is treated as an act tantamount to enforced disappearance for the purposes of its mandate.**

October 7 Attack

²⁰ Declaration on the Protection of All Persons from Enforced Disappearance, GA Res 47/133, UN GAOR, 47th Sess, UN Doc A/RES/47/133 (18 December 1992), para. 2.

²¹ International Convention for the Protection of All Persons from Enforced Disappearance, opened for signature 20 December 2006, UN Doc A/61/488, entered into force 23 December 2010, art. 2.

²² United Nations Working Group on Enforced or Involuntary Disappearances, *Hostage-Taking and Enforced Disappearances* (December 2024), available at: <https://www.ohchr.org/sites/default/files/documents/issues/torture/sr/cfis/hostage-taking/subm-hostage-taking-torture-un-spec-proc-4-wg-enforced-involunta-ances.pdf>

²³ United Nations Working Group on Enforced or Involuntary Disappearances, *Hostage-Taking and Enforced Disappearances* (December 2024), available at <https://www.ohchr.org/sites/default/files/documents/issues/torture/sr/cfis/hostage-taking/subm-hostage-taking-torture-un-spec-proc-4-wg-enforced-involunta-ances.pdf>

²⁴ *ibid*

Applied to the hostage-taking perpetrated by Hamas and five other Palestinian Militias on 7 October 2023, this framework has significant legal implications. We are in the view that **although Al-Qassam Brigades (the military wing of Hamas), the Al-Quds Brigades (the military wing of Palestinian Islamic Jihad), the Al-Aqsa Martyrs' Brigades (formerly the military wing of Fatah), and the National Resistance Brigades (military wing of the Democratic Front for the Liberation of Palestine) and the Martyr Abu Ali Mustafa Brigades (the military wing of the Popular Front for the Liberation of Palestine) are not state actors, their organized command structure and exercise of de facto authority over territory and detainees place its conduct within the category of violations met the criteria required for enforced disappearance** (and other prohibited act such as murder and torture) at the scale that is tantamount to crime against humanity, consistent with international NGOs findings, namely, Human Rights Watch and Amnesty International²⁵.

They demonstrated hierarchical command structures, internal systems of allegiance and obedience, coordinated operational planning, and the capacity to disseminate instructions and implement them across multiple locations simultaneously. They used communication systems, carried out maps, forcefully abducted civilians and kept them in prolonged detention facilities—showing a clear organisational policy required for crimes against humanity. This practice underscores an emerging convergence between international human rights law and international humanitarian law in addressing disappearance-like violations by NSAs, even as the formal definition of enforced disappearance remains anchored to State responsibility.

The Working Group's approach reflects a broader trend in international law toward assessing responsibility based on **effective control** and **the nature of the harm inflicted**, rather than formal status alone. While enforced disappearance remains, in strict legal terms, a crime linked to State action, the recognition of disappearance-equivalent violations by NSAGs highlights a normative gap with profound consequences for victims and their families.

The October 7 hostage-taking illustrates the urgency of this gap and strengthens calls for an evolutive interpretation of enforced disappearance—one that preserves doctrinal clarity while ensuring that contemporary forms of secret detention and denial of fate do not escape international scrutiny merely because they are committed by non-State actors (NSAs).

²⁵ Amnesty International, *Israel/Occupied Palestinian Territory: Targeting Civilians — Murder, Hostage-Taking and Other Violations by Palestinian Armed Groups in Israel and Gaza* (11 December 2025) Index No. MDE 15/0282/2025, available at <https://www.amnesty.org/en/documents/mde15/0282/2025/en/>

III. October 7 Attack and Underlying Atrocities: Enforced Disappearance, Hostage-taking, War Crimes & Crimes Against Humanity

On 7 October 2023, Hamas and other Palestinian armed groups, including the Al-Qassam Brigades, Palestinian Islamic Jihad (Al-Quds Brigades), and the Al-Aqsa Martyrs' Brigades, carried out a coordinated assault targeting civilians, civilian infrastructure, and Israeli security personnel across southern Israel. According to the UN Independent Commission of Inquiry²⁶ and reports by Human Rights Watch²⁷ and Amnesty International²⁸, these attacks affected at least nineteen kibbutzim, five moshavim, public gatherings including music festivals and beach parties, and urban areas. The assault resulted in over 1,200 fatalities, including at least 809 civilians, 280 women, 40 children, and 25 persons over eighty years of age. Additionally, 14,970 individuals were injured and required hospitalization. Among the victims, 251 individuals were forcibly abducted, including 92 women and girls, 36 children, and 8 elderly persons over the age of 80²⁹, many of whom were held for extended periods exceeding two years before eventual release or death.

The hostages were subjected to egregious abuses, including torture, cruel and inhuman treatment, sexual violence, and public humiliation. Corpses of deceased victims were mutilated, decapitated, burned, and desecrated, with evidence of sexualized violations. Videos and statements released by the perpetrators demonstrate the coercive use of hostages to compel action from Israeli authorities, highlighting the systematic nature of these acts.

These acts constitute war crimes under international humanitarian law³⁰. Deliberate and indiscriminate attacks against civilians, wilful killings of persons in custody, torture, cruel treatment, mutilation of bodies, sexual violence, and hostage-taking **violate various instruments** in International Human Rights Laws, International Criminal Law, International Humanitarian Law, and customary international humanitarian law.

Beyond individual war crimes, the **widespread and systematic nature of these attacks** against civilians, combined with the organizational policy to plan and commit multiple criminal

²⁶ Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, *Detailed findings on attacks carried out on and after 7 October 2023 in Israel*, UN Doc A/HRC/56/CRP.3 (10 June 2024).

²⁷ Human Rights Watch, *"I Can't Erase All the Blood from My Mind": Palestinian Armed Groups' October 7 Assault on Israel* (17 July 2024) <https://www.hrw.org/report/2024/07/17/i-cant-erase-all-the-blood-from-my-mind/palestinian-armed-groups-october-7>

²⁸ Amnesty International, *Israel/Occupied Palestinian Territory: Targeting Civilians: Murder, Hostage -Taking and Other Violations by Palestinian Armed Groups in Israel and Gaza* (Amnesty International, 11 December 2025) Index No. MDE 15/0282/2025, available at <https://www.amnesty.org/en/documents/mde15/0282/2025/en/>

²⁹ *ibid*

³⁰ see Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, A/HRC/56/CRP.3; Human Rights Watch [report](#); Amnesty International [report](#)

acts, meets the threshold for **crimes against humanity** under Article 7 of the Rome Statute. Crimes against humanity occur when acts such as murder, imprisonment, torture, sexual violence, and other inhumane acts are committed as part of a widespread or systematic attack directed against a civilian population, with knowledge of the attack. Evidence indicates that these attacks by Hamas and its affiliated armed groups were premeditated, coordinated, and executed on a large scale—considering the overwhelming number of civilian locations targeted and the repeated patterns of attacks deliberately targeting civilians, causing 1200 murders (youngest murdered aged 8 months, oldest murdered aged 94), 251 forcefully disappeared, **80,000 direct victims based on February 2026 official numbers by Israel Social Security, 330,000 displaced, and crimes committed simultaneously** across more than 20 communities and 100+ incursion sites.

The actions were also systematic, as evidenced by the repeated use of similar tactics by Palestinian armed groups across all crime bases. These included targeting civilians in their homes or at public events, attacking safe rooms and bomb shelters where civilians were seeking refuge, killing individuals by shooting or throwing grenades into shelters, burning homes, and conducting large-scale hostage-taking. The consistent application of these methods demonstrates a repeated and organized pattern, establishing that the assault constitutes crimes against humanity.

The abduction and concealment of 251 individuals further constitute enforced disappearance. Amnesty International has documented that hostages were held incommunicado, subjected to psychological abuse, forced to appear in coercive videos, and denied access to families. Families of hostages reported having no information as to whether their loved ones were alive or dead and their conditions. Hamas and other armed group's cruel acts fall within the broader scope of enforced disappearance due to the facts that the whereabouts of the detainees were concealed and hostages' protection under law were effectively denied, consistent with the definition of enforced disappearance.

Further, many hostages were shown alive in videos with propaganda messages—such as Evyatar David on August 1st 2025 where he was featured inside a tunnel with a shovel and being forced to dig his own grave and Rom Braslavski who was filmed in a condition of extreme starvation and begged for his release³¹—that Hamas and Palestinian Islamic Jihad released on social media platforms designed to compel action by Israeli authorities. This use of threats and the conditional release of hostages to compel third parties to act or refrain from acting similarly constitutes hostage-taking.

In summary, the October 7 attacks by Hamas and affiliated Palestinian armed groups involved deliberate and systematic targeting of civilians, abduction, hostage-taking, torture, sexual violence, mutilation, and desecration of bodies. The scale, coordination, and intentionality of

³¹ Human Rights Watch, *Videos Highlight Urgency for Israeli Hostages' Release* (6 August 2025) <https://www.hrw.org/news/2025/08/06/videos-highlight-urgency-for-israeli-hostages-release>

these acts meet the criteria for **war crimes** and **crimes against humanity**, while the abduction and concealment of individuals constitute **enforced disappearance** under international law. Both State obligations and the conduct of non-State armed groups are implicated, highlighting the legal responsibilities arising from the deprivation of liberty, concealment of victims, and targeting of civilians.

IV. Memorialisation

Memorialization is a legally grounded component of reparative and transitional justice mechanisms, essential for addressing serious violations of international human rights and humanitarian law. As the Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-recurrence explains in a report on memorialisation, “the underlying assumption of transitional justice is that past crimes – committed during an armed conflict, or by a repressive regime – must be adequately addressed in order to build a democratic, pluralistic, inclusive and peaceful society.”³² Memorialization processes are closely tied to the right to truth, recognized as an individual right of every victim and family member, and as a collective right whose “full and effective exercise ... provides a vital safeguard against the recurrence of violations.” These processes encompass not only symbolic acts but also practical measures of satisfaction and reparation, including verification of facts, public disclosure, official recognition or judicial decisions restoring the dignity of victims, apologies, commemorations, tributes, and integration of accurate historical accounts into education and public discourse, as outlined in UN General Assembly resolution 60/147 (2005).

In the context of enforced disappearance (or other mass atrocities/gross violation of human rights), memorialization is explicitly connected to the broader obligation to provide redress and reparations. The Working Group on Enforced Disappearances has emphasized in their 2013 report that reparations extend beyond monetary compensation to include medical, psychological, legal, and social rehabilitation, guarantees of non-repetition, restitution, and satisfaction measures that mitigate the consequences of the disappearance.³³ Families of disappeared persons have an imprescriptible right to be informed of the fate and whereabouts

³² United Nations Human Rights Council, *Memorialization Processes in the Context of Serious Violations of Human Rights and International Humanitarian Law: The Fifth Pillar of Transitional Justice*, Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, HRC 45th session, 14 September–2 October 2020, Agenda item 3.

³³ United Nations Human Rights Council, *Report of the Working Group on Enforced or Involuntary Disappearances*, HRC 22nd session, Agenda item 3, UN Doc. A/HRC/22/45 (2013).

of their relatives, and, if deceased, to receive the body promptly, regardless of whether perpetrators are identified or prosecuted.

Similarly, the Basic Principles and Guidelines on the Right to a Remedy and Reparation³⁴ further links memorialization to satisfaction: the search for disappeared persons, the identification of abducted children, and the recovery, identification, and reburial of the deceased in accordance with cultural practices or victims' wishes is recognized as an essential form of reparation, while procedural rights to investigation, truth, and justice constitute reparation in themselves. Memorial sites and monuments provide collective recognition of violations, reject impunity, and serve as preventive mechanisms, and States are urged to develop comprehensive legal frameworks for memorialization to avoid revictimization and safeguard dignity.

Although primarily a duty of States, contemporary practice increasingly recognizes the responsibilities of non-State armed groups (NSAGs) exercising effective control over territories and populations, particularly where enforced disappearances, hostage-taking, or secret detention occur. Families of victims retained the right to truth, access to information, and recognition of victims even when violations were committed by NSAGs. The UN Principles on Reparation similarly extend liability to NSAGs, emphasizing that victims must have equal access to justice and remedies irrespective of the identity of the perpetrator, and that responsible parties should provide reparation directly or compensate the State where reparation has been provided.⁹ Therefore, memorialization in such contexts is both a protective and preventive mechanism, ensuring the rights to truth, justice, and non-repetition, and reinforcing accountability for all actors responsible for serious violations of human rights and humanitarian law.

Case Study: O7J and Memorialisation —Do No Harm

To date, O7J represents 445 clients, including families of 75 murdered victims (20 of which were hostages), 28 released hostages, and 211 survivors who were direct victims, including released hostages. Working closely with the clients, O7J hereby shares our approaches with the Working Group on our practical approaches to memorialisation.

Building the Evidentiary Basis

O7J operationalizes memorialization through a practice-based, legally informed evidentiary approach, which constitutes one of the organization's core pillars: "Building an Evidentiary

³⁴ United Nations, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, UN Doc. A/RES/60/147 (2005), Principle 22.

Basis.” This approach recognizes that the pursuit of accountability and the preservation of memory are mutually reinforcing, and that the systematic collection and preservation of evidence form the foundation not only for legal justice but also for the broader recognition and acknowledgment of victims’ suffering.

Investigation, prosecutions, and trials create a binding account of the truth, serving as a safeguard against forgetting, denial, or distortion of the October 7 atrocities. This legal documentation constitutes a form of memorialization in its own right, particularly when carried out on behalf of victims and, wherever possible, amplifying their voices. These efforts occur within a complex, emergency-born ecosystem, characterized by thousands of missing persons, coordinated attacks across multiple fronts, and hybrid warfare aimed at spreading terror and shaping narratives. By implementing clear Standard Operating Procedures aligned with international standards, O7J ensures that memorialization is rigorous, survivor-centered, and closely integrated with the pursuit of truth, justice, reparations, and guarantees of non-repetition.

Between January and July 2025, under the leadership of O7J’s Chief Investigator, the organization mapped over 120 civil society documentation initiatives, the most valid and professional of which having a role in establishing the truth and creating a bank of memorialization, fact-finding, survivor testimonies etc. The biggest collection of civil initiative documentation is preserved by the National Library Collection of Israel. O7J's own evidence-building efforts include a triple fact-finding approach pre-empted by the development of internal Standard Operating Procedures (SOPs) and protocols to govern the collection, preservation, and authentication of materials. The triple approach consists in collecting evidence (1) directly from victims and survivors; (2) from Israeli authorities on behalf of victims we represent; (3) by building strategic partnerships with valid civil society initiatives; we channel directly from the field to International and domestic specialized Prosecutors and Investigators, as well as to UN Human Rights Mechanisms and Special Procedures. **Indeed, we advocate for an inclusive, analytical, and critical approach that combines a multistakeholder effort: empowering victims, requesting forensic and other evidence from investigative and prosecutorial state authorities on their behalf within existing normative frameworks, and partnering with civil society organizations.**

Building Strategic Multi-Stakeholder Partnerships for Memorialization

O7J’s activities operate through three interrelated channels, each of which reinforces the principles of memorialization. First, direct engagement with victims allows survivors and bereaved families to contribute their testimonies and materials, ensuring that the lived experiences of those most affected remain central to accountability processes. Second, interaction with Israeli authorities through formal information requests facilitates access to official records and supports ongoing prosecutions, while simultaneously documenting the status of released hostages and preserving historical records for families whose loved ones’ fates remain uncertain. Third, collaboration with civil society documentation initiatives enables O7J to consolidate evidence while respecting and strengthening pre-existing efforts, fostering

trust with affected communities, and ensuring that the collective memory of the events is accurately preserved. Through this work, the organization ensures that evidence collected is admissible in both domestic and international proceedings, thereby establishing a factual and legal foundation essential for memorialization and justice.

From a legal perspective, O7J's evidence-gathering constitutes a form of **practical memorialization**, reflecting the internationally recognized obligations of States and, where non-State armed groups exercise effective control over populations and territory, the corresponding responsibilities of such actors. Systematic evidence collection supports the **right to truth**, ensuring that victims' experiences are recorded and acknowledged. By consolidating and verifying materials from multiple sources, O7J prevents the erasure or distortion of history, in accordance with the obligations established under the Joinet/Orentlicher Principles, the Basic Principles and Guidelines on the Right to a Remedy and Reparation, and the International Convention for the Protection of All Persons from Enforced Disappearance.

Furthermore, engagement with authorities and civil society initiatives ensures that documentation contributes to legal accountability, thereby constituting a form of satisfaction and complementing formal criminal prosecutions, consistent with the UN Basic Principles and Guidelines on Reparations. The structured preservation of testimonies, evidence, and expert reports also reinforces guarantees of non-repetition, providing a record that informs public discourse, education, and judicial accountability.

In this manner, O7J's evidence-based approach operationalizes memorialization as a **rights-based and legally grounded practice**, bridging the documentation of enforced disappearances with broader reparative and transitional justice frameworks recognized under international law. By ensuring that victims' experiences are systematically collected, preserved, and integrated into formal processes, O7J both safeguards historical memory and contributes to the prevention of future violations.

V. Challenges and Recommendations

Drawing on our direct field experience supporting victims of the October 7 attacks and our engagement in global justice initiatives, **we identify key challenges to effective memorialization and propose corresponding recommendations to address them. We present these observations to inform and guide the Working Group's thematic report**, with the aim of ensuring that memorialization efforts uphold truth, dignity, accountability, and the rights of survivors and bereaved families.

Absence of perpetrator engagement and weaponisation of denial

First, while Israel has made many efforts in documenting and memorialising the victims of the mass atrocities, including holding official ceremonies, establishing exhibitions and monuments, producing documentaries and digital memorials by States and civilian groups alike, the perpetrators of the attacks—the Palestinian armed groups, including Hamas, its Al-Qassam Brigades, Palestinian Islamic Jihad, and the Al-Aqsa Martyrs’ Brigades—are not participants in any memorialization initiatives. Public statements and operational narratives, including “Our narrative... Operation Al Aqsa Flood,” demonstrate an ongoing attitude of denial regarding the scope and severity of violations of international humanitarian law and international law, including hostage-taking, enforced disappearance, extrajudicial killings, torture, and sexual violence. Amnesty International has emphasized that these actors have failed to undertake independent investigations or hold perpetrators accountable, thereby creating significant obstacles to truth-seeking and the recognition of victims. This highlights the difficulty of involving the perpetrators of the gross violations in being part of the memorialisation process.

The perpetrators of the October 7 attacks have systematically combined the **recording and dissemination of atrocities** with the **orchestrated denial of those same crimes**. Hundreds of coordinated denial campaigns have been conducted, amplified through social media, digital platforms, and other technologies, reaching audiences across the Arab world, Europe, the United States, and beyond. This deliberate strategy seeks to distort narratives, obscure accountability, and undermine recognition of victims.

Non-State Actor Challenges and Jurisdictional Burdens

Second, the non-State character of the perpetrators presents unique legal and practical difficulties. In the absence of effective State oversight, memorialization and justice efforts must navigate contexts where armed groups exercise de facto control over territory and populations but operate outside the framework of recognized legal accountability. This creates challenges for evidence preservation, access to witnesses, and the enforcement of obligations linked to reparation, truth, and non-repetition. These dynamics also produce jurisdictional challenges: internally, domestic actors face limitations in documenting violations when perpetrators are non-State, while externally, third states and international mechanisms must carry a greater burden to assert jurisdiction and pursue accountability.

Risk of Reprisal and Retaliatory Acts in On-going Conflict Setting

Third, ongoing armed conflict significantly exacerbates challenges to memorialization. During active hostilities, there is effectively no organized or sustained effort to document, commemorate, or preserve the memory of victims of gross human rights violations. Sites of atrocities, physical evidence, and testimonial records are particularly vulnerable to destruction, loss, or manipulation, which undermines the creation of an accurate collective memory. The absence of formal recognition or memorialization momentum also impedes societal acknowledgment of the violations and prolongs impunity.

At the same time, attempts to pursue accountability or collect evidence in real time carry heightened risks of reprisals or retaliatory acts against civilians, survivors, and witnesses—a concern recognized in international law as “reprisal risk” or “collective reprisal,” prohibited under customary international humanitarian law and the Geneva Conventions.

Challenges in Evidence Collection

Fourth, another key challenge to memorialization efforts is the inherent difficulty of collecting and preserving evidence, which can be **intentionally destroyed by perpetrators** or lost due to **limited expertise in documenting mass atrocities**. In the case of the October 7, 2023 attacks, perpetrators, including Hamas and affiliated armed groups, reportedly used exceptionally high-temperature fuels to burn victims, deliberately hindering forensic identification and complicating evidence collection³⁵. Rapid recovery and burial of victims by Israeli authorities further limited the documentation of crime scenes and the circumstances of deaths³⁶. Gender-based and conflict-related sexual violence faced additional barriers, including inadequate training for first responders and insufficient systematic documentation, which hampered investigation and prosecution efforts. This loss, destruction, or distortion of evidence amplifies the perpetrators’ strategy of weaponizing denial, obscuring the scale of atrocities and hindering accountability.

Psychological Harm and Risk of Re-traumatisation

Fifth, even when memorialization is essential for societal recognition, collective memory, and accountability, poorly designed processes can inadvertently retraumatize victims and survivors. Public commemorations, media exposure, or repeated recounting of traumatic experiences may intensify psychological harm, particularly for those who have lost family members or endured captivity. Memorialization initiatives must therefore be survivor-centered, carefully balancing the need to preserve evidence and document violations with measures to protect victims’ dignity, mental health, and privacy. Thoughtful approaches — including informed consent, control over personal testimonies, and culturally sensitive commemoration — are necessary to ensure that memorialization contributes to healing and long-term reconciliation rather than exacerbating trauma.

Over-politicization and threats to impartial truth-seeking

Sixth, one of the most significant risks in memorialization is the potential **weaponization of memory**, where political actors, armed groups, or other stakeholders manipulate narratives for strategic or political gain. In the context of the October 7 attacks, this danger is heightened by

³⁵ The Guardian, ‘Forensic teams still working to identify bodies 10 days after Hamas massacres’ (17 October 2023) <https://www.theguardian.com/world/2023/oct/17/hundreds-of-israeli-bodies-remain-unidentified-10-days-after-hamas-attack> accessed 26 February 2026

³⁶ Amnesty International, “Targeting Civilians: Murder, Hostage-Taking and Other Violations by Palestinian Armed Groups in Israel and Gaza” (Index: MDE 15/0282/2025, 11 December 2025) <https://www.amnesty.org/en/documents/mde15/0282/2025/en/>

the ongoing conflict and polarized environment, where social media and public discourse can amplify misrepresentation or selectively emphasize certain victims or events. Such manipulation can inflame divisions, propagate hate speech, and even incite cycles of revenge, undermining both societal reconciliation and the integrity of memorialization processes. Without truth, fact-finding efforts and careful oversight, memorials, commemorations, or publicized testimonies could inadvertently become tools to advance partisan narratives rather than to honor victims or promote collective understanding.

Balancing Collective and Individual Victim Interests in Memorialization

Lastly, Memorialization following the October 7 attacks faces a complex tension between collective and individual victim needs. Many victims belonged to tightly knit communities, such as kibbutzim, where shared spaces—like the Kfar Aza Youth Quarter—were sites of mass tragedy. Decisions about preserving, rebuilding, or transforming these spaces create ethical and emotional dilemmas: some community members may wish to preserve structures as memorials, while others seek to rebuild and resume daily life. Collective decisions, while reflecting the broader community, risk unintentionally marginalizing individual families' wishes, particularly those of bereaved parents who may have differing perspectives on commemoration. Ensuring that all voices are acknowledged, especially in highly traumatized and closely connected communities, is therefore a significant challenge in designing meaningful and just memorialization.

In light of these challenges, we urge the Working Group to consider the following recommendations:

RECOMMENDATION 1: Explicit inclusion of non-State armed groups in the international legal framework on enforced disappearances. The Working Group and relevant treaty bodies should clarify that NSAGs exercising control over populations bear obligations to respect international humanitarian law, human rights law, and the principles governing reparations and memorialization. In particular, there should be a clear guidance on reparations and memorialization for non-State Actors (NSAs)— standards such as the Basic Principles and Guidelines on the Right to a Remedy and Reparation and UNGA Resolution 60/147 should explicitly outline NSAs' duties to facilitate searches, provide information to families, preserve evidence, and recognize victims publicly.

RECOMMENDATION 2: While the State with territorial authority holds primary responsibility, countries of nationality—both of perpetrators and victims—share a joint obligation to support memorialization. In cases of mass atrocities and enforced disappearance, the involvement of additional actors—universal-jurisdiction States, international and regional organizations, and human-rights-based institutions—is essential to close accountability gaps, preserve evidence, and ensure recognition of victims. Expanding responsibility to these actors ensures that memorialization can proceed despite legal and operational barriers, upholds truth and non-repetition, and strengthens victims' trust that their

rights to memory will be protected. Third States, international courts, fact-finding missions, and UN human rights mechanisms must act impartially, independently, and consistently to safeguard both direct and indirect victim rights to memory.

RECOMMENDATION 3: Memorialization in conflict settings – The Working Group and relevant authorities should provide guidance on survivor-centered memorialization in active conflict settings. Evidence, sites, and testimonies are highly vulnerable, and attempts to document violations carry risks of reprisals, prohibited under international law. Efforts should prioritize secure preservation, avoid destruction or manipulation of evidence, and protect the safety and dignity of survivors and witnesses. Even amid hostilities, such measures are essential to uphold truth, accountability, and long-term reconciliation.

RECOMMENDATION 4: Recognizing that truth and fact-finding are integral components of memorialization—particularly in cases of enforced disappearance. States, international bodies, and civil society should systematically collect, document, and preserve evidence related to gross violations of rights. Evidence collection must follow forensic standards, be gender-sensitive, and protect survivors’ testimonies, ensuring admissibility in judicial and quasi-judicial proceedings, consistent with the ICRC’s Guidelines on Investigating Violations of International Humanitarian Law³⁷. Deliberate destruction or distortion of evidence undermines accountability and violates customary international humanitarian law and international norms. Geneva Conventions of 1949 and their additional protocol 1 of 1977 stress the importance of securing crime scenes and investigation of crimes, reporting and documenting violations of grave breaches of their provisions in order to carry out criminal proceedings and uphold victims’ rights³⁸.

RECOMMENDATION 5: Victim-centered approaches to prevent retraumatization – Memorialization processes must prioritize the safety, dignity, and psychological well-being of survivors. This includes obtaining informed consent, respecting privacy, allowing survivors control over the disclosure of personal testimonies, and integrating culturally sensitive commemorative practices. Such approaches can facilitate healing, support recognition, and contribute to long-term reconciliation while mitigating the risk of re-traumatization.

RECOMMENDATION 6: Memorialization should balance collective memory with individual rights. Processes must be inclusive and transparent, allowing victims to communicate their needs, participate in decision-making, and appeal decisions when necessary. Special provisions should allow adjustments to collective decisions to accommodate individual

³⁷ ICRC & Geneva Academy, *Guidelines on Investigating Violations of International Humanitarian Law: Law, Policy and Good Practice* (September 2019)

https://www.icrc.org/sites/default/files/document/file_list/guidelines_on_investigating_violations_of_ihl_final.pdf accessed 26 February 2026.

³⁸ *ibid*

circumstances, ensuring that memorials and commemorations honor both shared experiences and personal tragedies while maintaining fairness, dignity, and community healing.

RECOMMENDATION 7: Fair trials, truth-finding mission, and judicial records are essential to memorialization, especially in cases of enforced disappearance, providing authoritative accounts of atrocities and countering attempts to erase the truth. Investigations and prosecutions—through domestic, international, or universal-jurisdiction courts—establish verified narratives, while truth commissions and inquiry mechanisms support documentation and societal recognition. Without these processes, memory is vulnerable to manipulation, allowing political actors or armed groups to distort narratives, inflame divisions, and undermine reconciliation.

The October 7 attacks represent a profound instance of enforced disappearance, hostage-taking, and mass atrocities, highlighting the urgent need for robust memorialization as a means of protecting truth, honoring victims, and preventing recurrence. O7J underscores that memorialization must be survivor-centered, legally grounded, and carefully managed to avoid retraumatization or the weaponization of memory, particularly in contexts of ongoing conflict and NSAG perpetration.

We encourage the integration of these recommendations into the Working Group’s thematic report, reflecting insights drawn from our fieldwork and global justice expertise.

O7J stands ready to provide further information, evidence, or testimony to support the Working Group’s efforts in documenting, understanding, and strengthening memorialization practices in cases of enforced disappearance.

We appreciate the opportunity to contribute to this study and thank the Working Group for its consideration of the perspectives and experiences of victims, survivors, and bereaved families.

Att. Yael Vias Gvirsman, Founder and Lead Counsel, October Justice Without Borders

Yu Lin Chou, MPhil (Cantab), Law and Policy Fellow, October 7 Justice Without Borders