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WILPF Secretary General's Urgent Call for the Prevention of Genocide

We are on the brink of something appalling. We read it we hear it, we fear it, we feel it- even at a distance. We are being forced to choose sides, as we were in 2001 and 9/11. "With us or against us." The right of revenge seems to have become a norm of international law: it is not. Not for Hamas, not for Israel. Who is speaking for those who want peace, real peace, who understand loss and want an ending to their pain and the pain of others who were also left to mourn? An Israeli woman wrote this:

'We are often accused, the left, of double loyalty. And on days like this I really feel it. No loyalty and no duplicity are correct words here, and I will explain, but the sentiment is correct.... Double loyalty" is seeing both this and that with tears in your eyes.

It's a moment to talk to friends who don't know if their family members are dead or abducted and why to hope, and see the helplessness, the fear, the deep pain. And a moment later talking to a friend from Gaza that all he has to say is that every night now is the scariest night of his life. That he calculates his chances, and of his childhood, to wake up tomorrow morning.

"Double loyalty" is letting the heartbreak from both this and that.

It's to hold this moment between the brokenness and the pain and the shock over the deletion of Nir Oz, and to think about all the people there, between the anxiety of the deleting of Sajaia, and to think of all the people there.'

World leaders have rushed to pick sides, whilst we are creeping towards something terrifying: a possible genocide. The word itself draws the oxygen out of the room, particularly when it comes to law, it is a crime which defies comprehension, so we avoid its use. We refuse to see the evidence as it emerges towards a possibility.

Let us be honest: In Israel and Gaza we have potential genocide. It has been argued that the attacks by Hamas had genocidal intent, the continuation of that violence and the possibility of external intervention in support should and is bringing international attention to prevent further escalation. But what of Israel?

Statements of human rights experts, of INGOs monitoring the situation are all pointing to the commission of crimes against humanity and possible war crimes. The list has history. Gaza is currently under siege and the civilian population is trapped without water, food, and electricity. One million people have been given 24 hours to leave before some unspecified terrible event happens. An impossibility for those with those with disabilities, about to give birth, injured or simply too small to make it alone. And in any case, there is nowhere to go.

Can we not look to what we have said before in relation to violence on this scale and prevent it from happening again?

The Convention for the Prevention and Punishment of Genocide has been ratified by most States and has been incorporated into international customary law; States have a **duty to prevent** genocide.

Article 1 of the Convention for the Prevention and Punishment of the Crime of Genocide asserts that 'genocide, whether committed in time of peace or in time of war, is a crime under international law which [States] undertake to prevent and to punish.'

The International Court of Justice has given guidance on responsibilities: what should be done, by whom and when. It came from the decision in Bosnia v Serbia in relation to the genocide at Srebrenica, also an enclave, also surrounded, also with nowhere to run to. The ICJ said:

First principles:

'It has been the Court's opinion that the prevention of genocide is a legal obligation, and it is a **justiciable obligation** that one State effectively owes to the citizens of another State, outside its own territory.

Responsibility is incurred 'if the State manifestly failed to take all measures to prevent genocide which were within its power, and which might have contributed to preventing the genocide.'

What this means is that States must use 'due diligence', a concept in international human rights law in relation to the positive obligation of a State to act in response to threats to human rights including life and security.

The extent of the responsibility:

The first parameter is the State's capacity to influence the action of persons likely to commit, or committing, genocide. This capacity depends **on geographical** distance from the scene of events, the strength of political links, as well as 'links of all other kinds', such as 'the strength of the political, military and financial links' between the State's authorities and the main actors in the events.

The Court goes on to emphasise the importance of collective responsibility, for 'the possibility remains that the combined efforts of several States, each complying with its obligation to prevent, might have achieved the result – averting the commission of genocide – which the efforts of only one State were insufficient to produce'. In the current situation, the list of states is self evident, *inter alia*, the United States, the United Kingdom, the European Union, the regional powers and members of the Security Council whose obligation it is to act on threats to International Peace and Security. Let us also not forget Iran and the influence it exerts on state and non-state actors in the region.

The ICJ applied a broad test of actual or constructive knowledge, according to which 'the duty to act arise[s] at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed.'

We say that test has been met. There is now a duty to act. In so doing no one is gainsaying the horror of the attack by Hamas rather we seek to address the words and pain of those most affected and who want this cycle of slaughter and sorrow to just stop.