

A policy option for enabling a post-Hamas future for Gaza while refraining from genocide accusations

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Abstract

A policy option is discussed for facilitating progress in the situation in Gaza. A key element of the policy option is active abstinence/withdrawal of genocide accusations in the direction of Israel. A second key element is not in any way to take for granted that Israel has already been victorious over Hamas, it has not (yet). A third aspect is to increase Israeli trust in the process by not imposing a poorly negotiated two-state solution on the region without consideration of a plurality of future developments.

1 Introduction

In previous work we have argued that accusing Israel of genocide in Gaza may come with significant difficulties when validation of such accusations is sought. We have focused on

a single statement of the accusation which we call the Gaza 23/24 genocide accusation in brief GGA23/24. We refer to [8] for the literal wording of this accusation.

In [10] we have drawn as a conclusion from our theoretical work, the claim that we see a moral problem with issuing Gaza related genocide accusation towards Israel.

In this paper we will describe a policy option which might be contemplated by politicians in charge of developing policies regarding the Middle East. A cornerstone of said policy option is to refrain in most clear terms from genocide accusations like GGA23/24.

We do not claim that the proposed option is best possible, or that it is the right way to go for a specific state or body. Our claim is merely that the proposed policy option constitutes an option which should preferably be taken into account, because of, rather than in spite of, its unusual character. The policy option is briefly described as: *regulated support for a transformation of Gaza*, abbreviated to RS4ToG.

We will formulate the policy option RS4ToG as an option for one of the EU countries, anonymously named EU_X below, but its reach is wider. For EU_X we think of say France, The Netherlands, Italy, Germany, Spain, not so much of say Hungary. The proposal may be relevant for Canada and the UK as well.

1.1 Assumptions

We need some assumptions each of which may be disputed, and which may be understood as conditions for the subsequent claims and assertions.

1. There is a humanitarian crisis in Gaza, whatever its cause, and whoever is to be blamed for it, and merely waiting until Israel has completely vanished Hamas, at disastrous additional cost for the population of Hamas is morally wrong. A line of action is needed which provides better perspectives for the population of Gaza than a protracted between Israel and Hamas.

We construe this observation into the existence of a moral obligation for state EU_X to operate in such a manner the the humanitarian crisis in Gaza comes to an end.

2. For Israel ending the war in Gaza cannot go hand in hand with de facto recognition of the existence of a new Palestinian state. Israel faces what we refer to in [6] the Israel embedding problem (IEP): how to achieve a lasting and stable agreement with surrounding states and peoples.

As was discussed in [6] the two state solution (or solutions) is far from unproblematic for Israel. In particular, from an Israeli perspective, recognition by Israel of a Palestinian state cannot (as Hamas seems to wish) serve as a precondition for ending the war in Gaza and for the liberation of the remaining hostages who are in captivity

since 7 October 2023. Instead Israel needs the perspective of serious negotiations without fixed preconditions on which solution to the Israel embedding problem to choose, and on the future of several groups of Palestinians whose position has been unsatisfactory for many decades.

We remind that [6] was written with the following question in mind: if the 2 state solution is the solution, so what is the problem? And we named that problem as the IEP, thereby introducing a focus on Israel rather than on the Palestinian side of the issue. We refer to [6] for details on that matter.

3. In [6] we have described two conceivable solutions of the IEP which we did not find in the literature (but we cannot claim thorough knowledge of the quite fragmented literature on the Middle-East problems.)

- (i) USPIL (United States of Palestine, Israel and Lebanon), understood as a federation of 5 to 8 states, and

- (ii) the tandem-state solution, which is a kind of two-state solution where certain symmetries as well as asymmetries are built in by law and where both states can only change basic laws and principles in tandem while in political terms both states are less tightly coupled than one would expect of a federation.

Rather than to propose that USPIL or tandem states are preferable solutions to IEP over other solutions which have been proposed, we claim that IEP has a range of different conceivable solutions, and the introduction of a Palestinian state is merely one of these options which should not (at the start of negotiations) be given priority to the exclusion of all other options.

Our survey of options in [6] is a context dependent snapshot, and as time goes by some options may cease to be relevant and new options may emerge.

4. Successful humanitarian actions in Gaza will require the support of Israel, and for that reason taking Israel's key conditions into account, in particular

- (i) the condition that allowing humanitarian support does not come with an implicit or explicit acceptance of a Palestinians state in any manner;

- (ii) the conditional that Gaza genocide accusations are not issued and are clearly withdrawn on the basis that no validation of these accusations has yet been achieved.

- (iii) the condition that elimination of Hamas as a political force and as a military unit is not only paid lip service, say by state EU_X , to in political statements but is actively pursued EU_X with the full range of means available for EU_X .

5. Post Gaza war negotiations should not at this stage be organized with the creation of a new Palestinian state as the only or even major possible outcome. For any solution three requirements are essential:
 - (a) Israel has viable long term security guarantees, including formal recognition by all surrounding states Iran included;
 - (b) Palestinians outside Israel will live in safe and reliable conditions, will not be stateless anymore, and will enjoy a satisfactory legal position;
 - (c) The legal situation of the Palestinians in Israel and the Palestinian culture and Heritage is adequately protected.
6. Creation of a Palestinian state is potentially very problematic for Israel (see e.g. [6] for a compilation of arguments to that extent), and EU_X when making proposals for ending the war in Gaza should not unilaterally, and without Israeli consent, commit itself to the construction of a new Palestinians state.

Adopting such commitments an agreement on geographic matters has been achieved is likely to create additional difficulties.

7. Claiming that Hamas should have no role in the future political scene, which several EU states are doing, is premature if no thorough attention is paid to the formidable question how to achieve that level of silencing of Hamas.

In other words: emphasizing the condition that Hamas will play no future role in the Middle East is no substitute for actually (by means of a very costly war, or by means of successful policies) achieving that objective.

8. Several EU states have made steps in connection with Gaza. We mention 3 examples:

- The Netherlands has declared that two Israeli ministers will not be welcome in The Netherlands;
- Germany has promised to contribute to the alleviation of the humanitarian crisis in Gaza.
- France has announced that it will recognize a Palestinian state.
- France has proposed/required that there will be a UN intervention in Gaza.

We believe that none of these actions is likely to alleviate the ongoing humanitarian crisis in Gaza, an issue which requires most urgent attention. These actions are merely symbolic, and may even send the wrong signal, namely that primarily Israel

is to blame for the humanitarian crisis in Gaza, which a matter of political opinion rather than a matter of fact.

9. Ending the war in Gaza with the urgency needed to bring the ongoing humanitarian crisis to an end is difficult because of a lack of mutual trust. An external force (working name: EIGA for External Interim Gaza Authority) which is temporarily in control of Gaza may be helpful or even needed to achieve these objectives.

Some additional comments on EIGA:

(i) EIGA needs to be sufficiently strong to adopt the responsibility to eliminate Hamas as a political or military power, and to alleviate the humanitarian crisis at the same time. EIGA is supported by a combination of states. EIGA prepares for negotiations where two state solutions are not in advance set in stone as a necessary outcome.

A combination of EU states with or without the UK might constitute EIGA. Or China might step into this role. Or a combination of Arab speaking states. Or a combination of Germany, India and Indonesia.

(ii) In the open letter [14] by CIS (Commanders for Israel's security), a group of retired leading functionaries from IDF, Mossad, and Shin Bet, it is stated that a regional-international coalition should be forged which then can help a reformed Palestinian Authority to provide an alternative to Hamas. The idea is the same as of EIGA though the open letter suggests that said regional-international coalition would provide a transition to a two-state solution, a conclusion which seems to be premature and not needed for ending the suffering of the population of Gaza.

(iii) The key argument of [14] is that negotiations with Hamas are needed to achieve freedom for the remaining hostages, which is the most important objective of the Israeli military campaign. The implicit suggestion however, is that promising a two-state solution (which is prepared by the regional-international coalition as mentioned in (ii) above) will be needed as well, and it seems to us that doing the latter (at this stage and in advance of formal negotiations) would constitute too high a reward for the attack of 7 October 2025 (at least in the perception of the Israeli government in its constitution of of early August 2025).

(iv) EIGA should not be built on the assumption that the (or some) two-state solution is the preferred option for solving the Israel Embedding Problem (see item 2 above for IEP).

(v) As [14] indicates further military operations in Gaza are unlikely to bring the hostages back. Here a question arises: if the Israeli government prolongs the military campaign (for the elimination of Hamas) primarily in order to construct a roadblock for adopting a two-state solution, then one may complain that the Israeli military objectives of the Gaza campaign are obscure. Instead we believe that the Israeli government is entitled to maintaining (and changing when appropriate) its own rationale for the military

objectives which it has set. What matters is that the latter rationale is not an expression of tribocidal intention, while it may well be an expression of long term perspectives which do not comply with international expectations as enshrined in one or more UN resolutions.

2 Regulated support for a transformation of Gaza as a policy option

The policy option RS4ToG (regulated support for a transformation of Gaza) combines the following elements, where we first consider how as state EU_X may support Israel and and postpone the aspect of regulation on which EU_X must insist to Section 3.

1. To refrain from any genocide accusations in the direction of Israel in connection with the war in Gaza.

The motivation for this step is that it will increase trust within Israel for the positive outcome of interventions by EU_X or in which EU_X is participating. Besides a motivation refraining from genocide accusations also needs a justification, which is given below in 2.1.

2. It is recognized by EU_X that Israel intends to win the Gaza war with as an outcome that Hamas has no residual political or military power, and cannot reconstruct such power either.
3. It is recognized by EU_X that (for the citizens of Gaza) living quietly above a dense tunnel infrastructure loaded with offensive weapons is ultimately impossible. No neighboring state can afford being the target of a slow build-up of modern underground weapons. In other words: the necessity for Israel of neutralizing the tunnel system must be acknowledged, including the high price that comes with achieving that objective for the civilian population, especially if neutralization of the tunnel system must be done in the context of war, and/or without an effective evacuation policy.
4. It is recognized by EU_X that only after Hamas has been removed as a political and military power Israel will be able to have any confidence in future developments regarding the political structure of Gaza.
5. It is recognized by EU_X that Israel is entitled to the objective of winning a war and that Israel will go all the way to win the war. Asking for peace or for a pause of hostilities should only be done in combination with proposals on how to achieve solutions to the problems in Gaza, and on how to neutralize Hamas.

State EU_X should pronounce the above viewpoint, not only in abstract terms, but also when applied to the recent Gaza war, and EU_X should emphasize that this viewpoint is unrelated to any (in particular their own) judgment about the following issues:

- (i) the legality of the war (from either side),
- (ii) the plausibility of the war as a means to achieve underlying political objectives, or
- (iii) about any form of justification for the Israel-Hamas war.

Our proposal for a policy option for EU_X does not in any way depend on the view that Israel is fighting a just war. The proposal is as relevant for a state which considers the Israel-Hamas war in Gaza to be unjust (from the Israeli side).

6. It is recognized by EU_X that Israel can win the war with Hamas, and that ultimately will win the war, however large the cost, for Israel and for Gaza. For that reason, alleviating the fate of the people in Gaza amounts to supporting Israel in winning the war at a minimal cost in terms of civilian casualties.

There are voices that Israel cannot win the war and that Hamas is in the hearts of the population in Gaza. If so that situation is utterly dramatic. We assume that Hamas cannot win a war with Israel, and for that reason a wait and see approach is not reasonable. The EU_X government should not base its policies on the assumption that any solution other than an Israel victory is expected, or is facilitated.

For outsiders, among which the EU_X government, it is critical to think first of all in terms of how the war can be won by Israel, and only then to analyze civilian cost. Otherwise an abundance of well-meant, though ineffective, protective actions may be advised without a perspective on the war at large.

7. Options for supporting Israel with achieving a transformation in Gaza.
 - Not accepting Hamas as a source of reliable information regarding Gaza on any theme.
 - Systematically expressing the view that Hamas must indicate under which conditions it will surrender, recognizing Israel as victorious. Here surrender involves in any case the following elements:
 - termination of hostilities;
 - Hamas personnel disarms and has P.O.W. status;
 - Hamas steps down from any political power;

- Hamas dissolves its organization;
 - Hamas will not regroup;
 - unobstructed removal/destruction of the tunnel infrastructure.
 - Permanently asking of the UN and of all states to adopt said policy on Hamas.
 - Offering Israel troops and other resources in order to fight the war with Hamas. For instance as follows:
 - inspecting and cleaning out parts of the tunnel system;
 - validating the absence of weapons in food containers;
 - care (protection and containment) of P.O.W. groups;
 - acting as a temporary police forces;
 - supporting Israeli rule in Gaza until new groups in Gaza have constituted who may cooperate with Israel;
 - setting up hospital services.
8. Making suggestions for the installment of EIGA (as specified above In Section 1.1 item 9), showing willingness to participate in EIGA.
9. EU_X recognizes that waiting until the UN provides the services for Israel mentioned above will not work, because Israel won't have trust in the UN. Indeed, given its past actions and positions, the UN is unlikely ever to support Israel in said manner thereby contributing to the military stalemate instead of working towards its resolution.
- Obviously there is a lack of trust from the Palestinian side in the willingness of Israel to move towards a solution of the Israel embedding problem (IEP) which serves their needs as well. EU_X can contribute to Palestinian trust by insisting that solutions of IEP will comply with the conditions (b) and (c) mentioned above in item 5 of Paragraph 1.1.
10. EU_X recognizes that Israel is not just another liberal Western democracy, with a somewhat different ethnic composition. In spite of the manifest lack of trust in Israeli internal politics both inside and outside Israel, EU_X must recognize the specific characteristics of Israel as a Jewish and democratic state as laid down in the 2018 Nationality Law. Any other policy would amount to requiring a regime change in Israel, a requirement which external forces should be very reluctant about.
- If, when contemplated from the perspective of EU_X, the current ideology of Israel amounts to "apartheid" then it is a task within EU_X to deal with the implications

of such judgments and to investigate how a more felicitous image of Israel can be established within EU_X .

11. EU_X recognizes that European actions (trade sanctions, unwillingness to provide weapons, indications that a Palestinian state will be recognized), when combined, may force Israel to fight the war in Gaza in different ways. However, such actions must be based on a credible plan for working towards a post-Hamas future of Gaza and for working towards a solution of IEP in a manner which is compatible with Israeli interests.

2.1 Justification for actively refraining from genocide accusations

By issuing GGA23/24 the options for productive communication with Israel are massively reduced, for the simple reason that in Israel one does not share the view that genocidal intention is present in the population of Israel, nor that genocidal intention is a driver of IDF actions.

There is insufficient basis for the validity of GGA23/24 to justify the destruction of Israeli trust in the state EU_X authorities as caused by a casual tolerance for GGA23/24. Instead the EU_X government should make clear whenever possible that it does not support issuing GGA23/24. This step is important in view of acquiring Israeli support as mentioned in 4.

We have discussed the problem of validation of GGA2023/2024 in [9] and more explicitly in [10]. In Baroch [2] which was brought to our attention after writing [10] one finds an extensive critique of Gaza genocide accusations, including several of the arguments we use in [9] and in [10]. For a different line of argument for refuting Gaza genocide accusations see [13]. In Section 7 below we comment on the arguments brought forward in the latter paper.

In [7] we view genocide accusations as instances of extreme accusations, and extreme accusation have in common that the accusee may feel completely disconnected from the accuser and may feel deeply disrespected.

More specifically it is suggested in [7] that an accuser should be aware of and open about their plans for compensating the accusee in case validation of a genocide accusation turns out to fail. We see no indication that such precautions are taken. The self-assessed moral certainty that a genocide accusation is warranted cannot serve as a justification for failing to plan compensation for the accusee, or for failing to be open about such planning to the accusee: in other words an extreme accusation must come with a conditional promise for compensation under the condition that validation eventually fails.

By not issuing genocide accusations, or in case these have already been made, by actively withdrawing such accusations (while still making the conditional promise for com-

pensation) a significantly simpler burden is taken on board by the government of EU_X in comparison to the situation arising when genocide accusations are issued by officials of state EU_X (in advance of validation thereof).

3 Regulated support

The policy option mentioned above is to be understood as a regulated support in the following sense: the intention is to support Israel with fighting the war until a successful end and at the same time being fully dedicated to the minimization of civilian casualties.

Regulated support will involve imposing conditions on Israel for support regarding care for civilians. Regulated support may also involve claiming a free hand for supporting the population of Gaza.

Another option is to support Israeli institutions who aim at alleviating the fate of civilians in Gaza, see e.g. the letter by presidents of 5 Israeli academic institutions [11].

Recognition of a Palestinian state lies outside the scope of regulated support and should preferably not be confused with support of the civilian population of Gaza. Solving the Israel embedding problem can only be done in cooperation with Israel.

We see an IEGA as discussed above as a very plausible instrument for regulating support for Israel. An IEGA may adopt authority and responsibility over Gaza in a phase of cease fire and the sort out the situation with Hamas without Israeli interference.

4 Five modes of use of genocide accusations

We see the ubiquitous use of genocide accusations in the direction of Israel as a stumbling block which stands in the way of an unbiased appreciation of the current conflict in Gaza. For that reason we will continue our discussion of Gaza genocide accusations with some further remarks. The discussion about validity and plausibility of genocide accusations is complicated by a plurality of different motives for issuing such accusations. We list five of such modes of use:

Gaza genocide accusations may have different backgrounds, we distinguish the following 5 forms of use of genocide accusations:

1. (Legal in court.) As an accusation made in a legal setting in preparation of ICL or ICJ court procedures.

Such use is necessary and unavoidable, though with the emphasis that such accusations should not be reiterated (as accusations) outside the legal procedures at hand (at least not in advance of validation thereof in court).

(Legal outside court.) Of course outside court legal scholars may discuss genocide accusations when contemplating legal procedures.

2. (“Factual” expression of disagreement.) As an expression of a claimed consensus about Israeli actions. As a part of this consensus the Israel-Hamas war is seen as being of secondary importance, or as a war which need not be won by either side.

This use of genocide accusations is often made by observers who primarily focus on the humanitarian cost of the war, and who consider ending human suffering as the primary objective at hand. Clearly the latter view is hardly consistent with the perspective of both sides in the conflict who fight for victory. We consider this use of genocide accusations problematic because insufficient attention may be paid to the need of justification for extreme accusations.

3. (Scholarly context.) As an accusation made in a scholarly setting as expressions of a scholarly based viewpoints under the assumption that scholarly validation will follow.

In [9] we have discussed that at present we consider the scholarly basis of GGA23/24 insufficient for the justification of its use. We conclude that scholarly literature ought to be cautious with the outright use of GGA23/24, and be written in conditional terms, awaiting further validation, and preferably be merely contributing to validation (or invalidation for that matter).

4. (Strongest possible rejection of behaviour.) As a strongest possible expression of disagreement with Israeli actions.

We feel that such use lacks justification, the risk of overaccusing is high, and that using other accusations (e.g. of war crimes or of mass atrocities) would be preferable. (See also [7, 8]).

We appreciate this perspective and we see it as one of several reasons for abstaining from Gaza genocide accusations, especially for those who disagree with how Israel executes the Gaza war.

5. (Intentional overaccusation.) As an intentional overaccusation which is justified because of the positive impact it may have in changing Israeli behaviour to the advantage of civilians in Gaza. (See also [5]).

We can imagine intentional overaccusation, and we agree that the deliberate use of genocide accusations, in cases where the accuser knows that in fact no genocide is being conducted, may be justified by the restraining effect issuing the genocide accusation may have on the perpetrator at hand. However, following [9] we do not

believe that the situation in Gaza allows for this use of genocide accusations, as such use may harm rather than benefit the civilian population of Gaza.

Of these uses only the first use, in international legal procedures is without problems, though the risk that accusations are copied in advance of validation is high, and such copied accusations outside the legal context lack justification and may come with undesirable side-effects. The other four uses are problematic and should, in the context of Gaza best be avoided.

5 Five modes of disagreement with Gaza genocide accusations

Below we list 5 forms of disagreement with issuing Gaza genocide accusations. The position we adopt in [9] is as in item 3 while the position we adopt in [10] is as in item 5.

1. (Cynical tolerance.) As an acceptable outcry seen from a (cynical) Israeli perspective: Israeli leadership may be convinced that on the long run accusations like GGA23/24 will not be validated, while on the short run those who issue GGA23/24 are hardly in the position to express less extreme accusations which might be validated in due time. In other words the use of GGA23/24 in foreign countries shields of Israel against the impact of weaker but more plausible accusations, thereby giving Israel a free hand for conducting the war.
2. (Conscious overaccusation.) Intentional overaccusers (say in case of GGA23/24) in fact disagree with the accusations they issue while accepting the responsibility of conscious and intended (extreme) overaccusation.
3. (Scholarly disagreement.) Authors may disagree with GGA23/24 on the basis of scholarly judgment. Disagreement already arises in case one considers the case for validation wanting.
4. (Disagreement in court.) A lawyer in court may be (or act as if) in disagreement with GGA23/24.
5. (Tactical disagreement.) One may agree with (or at least strongly disagree with GGA23/24 (or similar Gaza genocide accusations) while claiming at the same time that for various reasons it is preferable to refrain from issuing GGA23/24.

6 Background

In [5] we have outlined the notion of an extreme accusation, and we made an initial investigation of genocide accusations as an instance of extreme accusations in [7].

In [8] genocide accusations are discussed in more detail, with a focus on the problems encountered when defining genocide, in particular paying attention to the grey area between genocide and war crimes, thereby concluding that the LOAC (laws of armed conflict) seem to be in need of revision, rather than the classical definition of genocide.

In [9] the theoretical developments of the cited papers is applied to the recent war in Gaza and an analysis is made of a particular rendering of a Gaza genocide accusation, which we refer to as the Gaza 2023/2024 genocide accusation, GGA23/24 for short. We refer to [9] for the literal phrasing of GCA23/24, and for the argument why it matters to consider a precise wording of this kind of area/episode specific genocide accusation, in view of the plurality of conceivable alternative phrasings thereof. Events in 2025 are not included in the discussion in order to be able, in theory at least, to obtain stable conclusions.

In [10] we have formulated a moral objection against issuing Gaza genocide accusations towards Israel. In the text above we indicate how said moral objection may feature as a component of a policy which aims at improving the fate of the civilian population of Gaza.

7 Remarks on arguments by Goda and Herf

Norman Goda and Jeffrey Herf refute Gaza genocide accusations in a recent paper in The Washington Post [13]. Our line of argument in [9] is far more complex (cumbersome) than the arguments brought forward by Goda and Herf. We need to explain why we consider a more cautious approach to these questions needed. We mention the following aspects of the arguments in [9] which, we have either not taken on board or have used in a different manner:

1. In [9] it is stated that the Israel-Hamas war as started by Hamas. We assume that Israel has started the war, for which the timing was triggered by the events of 7 October 2023. This aspect matters because viewing a terrorist attack as a declaration of war may be considered insufficient for validating the claim that Israel is fighting a war.
2. In [9] much attention is paid to the undeniable wrongdoings of Hamas, however, none of these have any bearing on whether or not Israel is involved in committing

genocide in Gaza. The tone of [9] is too close to suggesting that Israel is taking revenge for wrongdoings of Hamas, thereby failing to avoid the suggestion that proportionality is about “how to win a war against Hamas” rather than about “how bad is Hamas and what violence is justified in the light of that evil” and if that were the case genocide is hard to deny.

3. Norman and Herf seem to claim that it is not the case that a Gaza genocide accusation is valid. However, as we have discussed in detail, only after an impartial investigation of the facts on the ground during the Gaza war accusations like GGA23/24 can be refuted because it cannot, at this moment, be excluded that upon investigating the violence as enacted by Israel during 2023 and 2024 in the course of the war will be considered genocide after all, even without any further proof the the leadership of the IDF or the Israeli government had genocidal intentions which were casually related to what we call the Gaza 23/24 tribocide in [9].
4. It is wrong to accuse Israel of a Gaza genocide (such as GGA23/24) because there is definitely insufficient evidence for it, and because there it is quite conceivable that in due time GGA23/24 will be rejected (as explained in [9]). However, we consider it to be mistaken in this phase of the war to claim that issuing GGA23/24 is wrong because GGA23/24 is invalid, as the latter conclusion cannot yet be drawn.
5. Goda and Herf claim that Gaza genocide accusations to a large extent depend on figures on civilian casualties which have been collected and disclosed by Hamas, which is not a reliable source. Both claims are valid, but then the question remains: if the figures given by Hamas turn out to have been true, and if in fact these figures turn out to have been lower estimates rather than precise figures, thereby underestimating the problems: what impact would such observations have retrospectively on the strength of the arguments [13]. Are Goda and Herf in agreement with the claim that Israel is at risk of committing genocide, a conclusion which, however sensitive, we could not avoid in [9].
6. Goda and Herf pay little attention to the movement which proposes to change the definition of genocide in order to arrive in a more straightforward manner at validation of Gaza genocide accusations. Nevertheless, such changes of definitions or rules are vital for the Israeli argument if it is to do away with its vulnerability for extreme accusations. In [9] we propose that the LOAC is in need of revision rather than the definition of genocide.
7. In [13] it is suggested that the qualification genocide is better applied to Hamas, where the attack of 7 October 2023 is probably meant as a basis for a genocide

accusation in the direction of Hamas. However, although the attack of Hamas may be understood as a violent outburst of antisemitism, and as a crime against humanity, we believe that the scale of those crimes was too small to qualify for a case of tribocide. These crimes of Hamas are no war crimes either (which would be the case if the attack is seen as the first act of a war begun by Hamas, as suggested in [13]), a view which we prefer to reject. The jurisprudence indicates, however, that the scale of destruction in Gaza may well reach the level of tribocide, that is the level of consequences of a genocide. This difference between both cases should have been taken into account in [13]).

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