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STATEMENT BY PROFESSORS OF INTERNATIONAL LAW AND INTERNATIONAL RELATIONS ON THE SITUATION IN GAZA

We, the undersigned, members of the Spanish Association of Professors of International Law and International Relations (AEPDIRI), in the face of the humanitarian catastrophe and the serious crimes of international importance that are being committed in Gaza, assume the responsibility that corresponds to us,

WE DECLARE the following:

1. We join the urgent calls for an immediate and unconditional ceasefire to cease the Israeli military attack on the Gaza Strip, which is in breach of the most basic principles of international humanitarian law and the limits of the right to self-defence
2. We endorse the words of the Secretary-General of the United Nations, Antonio Guterres, on 25 October, in which he remarked that "the grievances of the Palestinian people cannot justify the atrocious attacks of Hamas. And these heinous attacks cannot justify the collective punishment of the Palestinian people." We agree that "it is also important to recognize that Hamas' attacks did not come out of nowhere. The Palestinian people have been subjected to 56 years of suffocating occupation."

3. We express our full support for the United Nations, which has insistently advocated compliance with international law by all actors in the conflict, for its peaceful resolution and for the promotion of peace agreements. We would like to highlight in particular the continuing and essential assistance provided to the nearly five million Palestine refugees cared for by UNRWA, who are now also victims of the attack on Gaza. The UN is the highest representative of the international community. The accusations made by the representatives of Israel against the Secretary-General of the United Nations in this context are unacceptable.
4. Decades of illegal occupation of the Palestinian Territories, of thousands of civilians killed, many of them women and children, and many more injured, of a terrible blockade on the Gaza Strip, of the construction of a wall that is illegal according to the International Court of Justice, of the expulsion of Palestinians from their homes by settlers supported by the Israeli administration and security forces, as well as a legal system that actively discriminates against Palestinians and has been deemed to constitute apartheid, have brought Palestine and the Palestinians into an untenable and desperate situation.
5. It is a matter of deep concern that the Oslo Accords of 1993 have not made it possible to achieve an essential peace that would guarantee the security of both Israel and Palestine.
6. Hamas' attacks on 7 October against Israeli civilians, including murder, maiming and hostage-taking, constitute serious violations of international law that could be classified as war crimes or crimes against humanity. The perpetrators, who have an obligation to cease their unlawful behaviour immediately and release the abductees safely, should be prosecuted and tried by a competent court.

The commission of serious violations of international law does not justify an armed response that in turn violates this law. In other words, Hamas's terrorist acts do not justify the subsequent crimes of the State of Israel. In the face of the grave crimes perpetrated by Hamas, Israel has, according to the Charter of the United Nations (Article 51), the inherent right of self-defence, that is, the right to use the force necessary to repel an actual or

imminent armed attack, for the duration of the attack, and by the means provided to repel it. But self-defence does not entail the right to armed reprisals. They constitute an unlawful use of force and are contrary to international law, as set out in its interpretation of the basic principles of the Charter of the United Nations in Declaration 2625 (XXV) of its General Assembly. Thus, punitive armed actions ("collective punishments") are illegal, and carry international responsibility for the State that carries them out. International humanitarian law – including the Geneva Conventions – must be respected, and Israel has an obligation to immediately cease such retaliatory actions against Palestinian civilians.

The siege of Gaza by the Israeli army has already led to the killing of thousands of people, half of them women and children, as well as a large number of people injured. The authorities are grossly, knowingly, flagrantly and notoriously failing to comply with the basic norms and principles of international humanitarian law, including the fundamental principles of distinction, precaution and proportionality, especially in a densely populated area under strict blockade for 16 years and decades of occupation. According to the Fourth Geneva Convention and the Rome Statute, it is prohibited to intentionally direct attacks against the civilian population as such or against civilians not taking a direct part in hostilities; intentionally directing attacks against civilian objects and intentionally launching attacks, knowing that they will cause incidental loss of life, injury to civilians or damage to civilian objects; intentionally starving the civilian population as a method of warfare, depriving them of the necessities of their survival, including intentionally obstructing relief supplies and humanitarian aid; and attacking or bombing cities, villages, dwellings or buildings that do not constitute military objectives.

It is also strictly forbidden to forcibly transfer the civilian population from one area to another, unless the safety of the civilians involved or imperative military reasons so require. In this regard, the International Committee of the Red Cross has stated that "the instructions issued by the Israeli authorities to the population of Gaza City to immediately leave their homes, coupled with a complete siege explicitly denying them food, water and electricity is not compatible with international humanitarian law". UN Special Rapporteurs are also warning that the complete siege of Gaza, coupled with unworkable evacuation orders, or Israel's deliberate and systematic destruction of civilian homes and

infrastructure, constitute war crimes and crimes against humanity.

Since the beginning of the attack on Gaza, the statements of the Israeli political and military authorities have clearly indicated an intention not to feel bound by the fundamental principles of international law and an intention to apply collective punishment and to expressly create a humanitarian crisis. Indiscriminate and large-scale armed attacks against civilians are contrary to human rights and international humanitarian law and give rise to responsibility for Israel and, moreover, individual criminal responsibility for their perpetrators and those who ordered their commission. Israel has an obligation to put an end to them immediately.

It is not only the parties to this conflict that must respect international norms protecting human rights and international humanitarian law at all times and in all circumstances. All other States, as parties to the Geneva Conventions, have a duty to enforce these rules in all circumstances. In this regard, they should use their influence to bring about an end to breaches of international humanitarian law and refrain from encouraging further breaches of international humanitarian law by parties to the conflict.

Because of the seriousness and international significance of the crimes being committed in Palestinian territory, the States Parties to the Rome Statute should vindicate in this conflict the fundamental role of the International Criminal Court in the delivery of impartial justice because of its permanent, independent nature and linked to the United Nations system. In the same way that has been done with other crises, such as Russia's invasion of Ukraine. In March 2021, the International Criminal Court opened an investigation into the situation in the State of Palestine, which has been a party to the Rome Statute since 2015. Thus, the Court has jurisdiction over war crimes, crimes against humanity, genocide and aggression when perpetrated by Palestinian nationals or when committed wholly or partly in Palestinian territory, which extends to the territories occupied by Israel since 1967, namely Gaza and the West Bank, including East Jerusalem. States Parties, such as Spain, must demand that, in this investigation and in all those that are underway, international justice be respected and that threats and pressure on their officials cease.*

* In any case, the list of signatories is not updated automatically but is done periodically (twice a day). For this reason, the name and surname of the signatories does not appear in the list immediately.

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