

Hamas War Crimes in Gaza

It is a cause of wonder, though not surprising, that the international community has not indicted the terrorist group Hamas on charges of war crimes, and crimes against humanity, and violations of international law, for its actions against innocent citizens, both Israelis and Palestinians, during the conflict in the Gaza Strip in summer 2014.

The evidence has been made clear in two sources. One is a 277-page report by the Israel Foreign Ministry and other authorities. The other is a report submitted to the United Nations by the High Level International Military Group, comprising non-Israeli former chiefs of staff, generals, and politicians and headed by General Klaus Naumann, the former chairman of the NATO Military Committee.

Both reports examine the fighting, Israel's Operation Objective Edge, and the actions and objectives of Hamas during the conflict in the Gaza Strip in summer 2014. The evidence of criminal activity by Hamas is so overwhelming that it compels all decent nations of the world and every humanitarian organization and individual interested in human rights to take action and bring Hamas before the International Criminal Court.

The two reports conclude that Israel not only met a reasonable international standard of observance of the laws of armed conflict, but in many cases significantly exceeded that standard.

Bigoted charges have long been and continue to be leveled against Israel for Operation Protective Edge. One such charge is in fact being made, as expected, in a report by the biased United Nations Human Rights Council (UNHRC). Not coincidentally, UNHRC, with its majority of non-democratic member-countries, is the world's most consistent and automatic

critic of democratic Israel.

UNHRC will almost certainly continue its biased and bigoted way, but others may reach a different conclusion. Hamas deliberately launched thousands of attacks not only to terrorize the Israeli population and destroy property, but also to prevent any peaceful negotiations for a settlement between Israel and Palestinians. In addition to these belligerent actions by Hamas, militancy in Gaza came from other terrorist groups, particularly the Palestinian Islamic Jihad and the Al-Aqsa Martyrs Brigade.

There is now abundant objective evidence that Palestinian terrorists fired from mosques, hospitals, and United Nations schools used as arms depots. Explosive devices were planted in civilians' homes, and tunnels were dug in residential neighborhoods. A prominent U.N. official, John Ging, has confirmed that Hamas fired from U.N. installations and housing, from its food distribution centers, and from professional training centers.

Hamas terrorist attacks since 2000, about 15,200 rockets and mortar shells, killed more than 1,250 Israelis and injured thousands more. More than 11,600 were launched after Israel's complete withdrawal from the Gaza Strip in 2007. During Operation Protective Edge, Hamas fired 4,500 rockets, as well having 32 assault tunnels to facilitate attacks on Israel and to kidnap Israel civilians and soldiers.

The context of the conflict has two dimensions. One is its urban nature. The Hamas combat manuals and training materials, recovered after the war, reveal their strategy. It was based on drawing hostilities into urban territory, thus misusing residential areas, public places, and civilians for tactical purposes.

The second is that the Palestinians involved non-state individuals who acted contrary to international law. Military

operations were linked with use and misuse of civilians. Hamas militants were disguised as civilians, and even as IDF soldiers. The terrorists made use of residential homes for military purposes, as well as schools, hospitals, mosques, and United Nations facilities. As a result, it was inevitable and unavoidable that civilians would be harmed.

The moral dilemma for Israel has been acute. Can it remain committed to the rules of international law even as it fights terrorists? To what extent could it strike the Hamas facilities – action that undoubtedly would lead to some civilian casualties, euphemistically called “collateral damage,” in response to the indiscriminate attacks by Hamas on Israeli civilians who must be protected?

Israel has often been accused, almost always unfairly, of using disproportionate force during the 2014 Gaza conflict, as on earlier occasions. For moral reasons, Israel has had to assess the anticipated military advantage of a specific attack against the expected collateral damage from the attack. It was, however, obliged to take action against the militants who embedded themselves and military objectives in urban areas with civilians.

It is therefore salutary to examine the incidents in which civilians were killed or injured in the light of the use by Hamas of the Palestinian civilian population. During the fighting, 550 rockets and mortars were fired by Hamas, including many from the civilian places mentioned and by hiding behind civilians.

The conclusion of the High Level International Military Group is particularly compelling. It asserted that it was a measure of the seriousness with which Israel took its moral duties and its responsibilities under the law of armed conflict that, in some cases, Israel’s scrupulous adherence to the laws of war cost Israeli soldiers’ and civilians’ lives. Israel had tried to prevent injuries to Palestinian civilians by warning them

of impending attacks, and by canceling operations that would have caused a disproportionate amount of civilian casualties.

Shamefully, Hamas forced people to stay and ignore IDF warnings. The terrorists used the civilian population as human shields.

Indeed, Hamas deliberately concealed that civilians were killed as a result of their involvement in hostilities. We know this from notices posted by the so called Ministry of the Interior of Hamas, which, on August 5, 2014, issued a statement that Palestinians should be wary of disseminating information about fatalities or mentioning the circumstances of their deaths or where they died. The Ministry, on July 11, 2014, asserted that anyone killed or martyred was to be called a civilian from the Gaza Strip or Palestine. In fact, it became increasingly difficult to know if a killed person was a militant or a civilian uninvolved in hostilities.

It is less difficult to appreciate that Israeli forces made substantial efforts to act in accordance with the Law of Armed Conflict, and to avoid casualties in its response to incessant attacks against the civilians of the State of Israel.

Someday, even Amnesty International and Archbishop Desmond Tutu may appreciate this.

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