

The Ethics of the Israel Defense Forces

For nearly 70 years, Israelis have faced constant threats to their safety from wars and terrorism. Through ceaseless efforts at self-defense, the Israel Defense Forces (IDF) has gained unique experience in how to conduct effective military operations while going to great lengths to safeguard civilian life. The IDF Code of Ethics emphasizes the importance of protecting civilians no matter what “side” they are on.¹ Still, despite the IDF’s efforts to uphold its high ethical standards, Israeli and Palestinian civilians have suffered immensely during conflicts between Israel, the terrorist organization Hamas, and others. The tragic reality is that wars always lead to innocent people being injured or killed, even when they are not the intended target. Unfortunately, some in the international community use the suffering of Palestinian civilians to demonize the IDF and make misleading claims about international law. While it is important to hold all armies, including Israel’s, accountable, many accusations that are frequently made about the IDF are simply inaccurate.

Meeting and exceeding moral and legal standards of warfare

- Today, militaries are supposed to be constrained by the Law of Armed Conflict (LOAC) or International Humanitarian Law (IHL), which exist in large part to protect civilians during times of war. IHL requires armed forces to act only to achieve legitimate military objectives, to distinguish between civilians and combatants, and to avoid causing disproportionate damage to civilians who may be near a legitimate military target.
- Despite often being forced to engage in urban warfare against terrorist groups that hide behind civilians and fire rockets from densely populated areas, the IDF has met and often exceeded the highest standards of LOAC/IHL². When it suspects civilians are near a military target, the IDF warns them to evacuate with phone calls, text messages, leaflets, and other means. It also aborts many operations to avoid harming innocent people. Indeed, the IDF’s tactics often go beyond what is required by the Geneva Conventions³.
- In a 2015 report about the IDF, military leaders from other liberal democracies, “expressed strong concerns that the actions and practices of the IDF to prevent collateral damage were so extensive... that they would curtail the effectiveness of our own militaries, were they to become constraining norms of warfare enacted in... law.”⁴

“Every human being is of value regardless of his or her origin, religion, nationality, gender, status or position.”

-IDF Code of Ethics, on ‘Human Dignity’

Misleading criticisms about the IDF using “disproportionate force”

- While Israel does all it can to protect Israelis during war, Hamas and other terrorist groups use Palestinians as human shields⁵. As a result, Palestinians tend to suffer far more civilian casualties than Israelis do. Some in the international community exploit this to make deeply misleading accusations about IDF “war crimes” and “disproportionate force”.

¹ Israel Defense Forces, “IDF Code of Ethics,” *IDFBlog*, at <https://www.idfblog.com/about-the-idf/idf-code-of-ethics/>

² Merriam, John J. and Schmitt, Michael N., *Israeli Targeting: A Legal Appraisal* (April 20, 2015). 68:4 *Naval War College Review* 15-33 (Autumn 2015). Available at SSRN: <https://ssrn.com/abstract=2596836>

³ “Treaties, States Parties and Commentaries.” Additional Protocol (I) to the Geneva Conventions, 1977 - 51 - Protection of the civilian population. January 8, 1977. <https://ihl-databases.icrc.org/ihl/WebART/470-750065>

⁴ High Level Military Group, *AN ASSESSMENT OF THE 2014 GAZA CONFLICT*, Friends of Israel Initiative. October 2015. Pg. 72. <http://www.high-level-military-group.org/pdf/hlmg-assessment-2014-gaza-conflict.pdf>

⁵ Kenneth Anderson, “Laurie Blank follow-up on Gaza, proportionality, and the law of war,” *Washington Post*, August 6, 2014, at https://www.washingtonpost.com/news/volokh-conspiracy/wp/2014/08/06/laurie-blank-follow-up-on-gaza-proportionality-and-the-law-of-war/?utm_term=.f83c6600ccbca; Schmitt, Michael N., *Human Shields in International Humanitarian Law* (January 4, 2009). *Columbia Journal of Transnational Law*, Vol. 47, 2009. Available at SSRN: <https://ssrn.com/abstract=1600258>

- Proportionate force “cannot in any way be determined by considering the relative casualty figures between belligerents in a conflict.” Proportionality is determined by weighing the benefit of a strike against the potential harm to civilians. This can be extremely difficult to decide in the heat of battle.⁶
- International law stipulates that not all attacks that cause civilian casualties are evidence of criminal misconduct. Attacks targeting legitimate military objectives that unintentionally result in civilian deaths or injuries are not war crimes.⁷
- “Civilians were not intentionally targeted as a matter of policy [during Israel’s operations]” - Judge Richard Goldstone⁸
- “The Israeli Defense Forces did more to safeguard the rights of civilians in a combat zone than any other army in the history of warfare.” - British Colonel (ret) Richard Kemp⁹

For pre-planned strikes against enemy positions to take place, they must first be approved by IDF lawyers. Their legal rulings are considered binding on the relevant combat commanders¹.

¹ Stern, Willy. "Attorneys at War." Weekly Standard. June 15, 2015. Accessed September 07, 2017. <http://www.weeklystandard.com/attorneys-at-war/article/964911>

Transparency and accountability

- Like in other democracies, Israel’s military is subject to civilian oversight, to ensure that soldiers who violate international law and/or IDF policy are held accountable.¹⁰
- Investigations of IDF conduct during 2014’s Operation Protective Edge began during the operation itself, even as Israel was defending itself against Hamas rocket fire and terror tunnels. These inquiries are initiated based on reports from NGOs, private individuals, media organizations, and even the IDF itself. As of October, 2015, 22 incidents that occurred during Protective Edge were assigned criminal investigations.¹¹

Too many Israelis have died or been wounded at the hands of racist terrorist groups like Hamas, and too many continue to suffer from PTSD. No one should be forced to live in constant fear of rocket fire, terror tunnels, and other forms of terrorism. In the face of these threats, Israelis of all backgrounds look to the IDF to defend them and their children from harm, while upholding the highest ethical standards.

Those who accuse the IDF of using “disproportionate force” and committing war crimes as a matter of policy are spreading falsehoods that harm Israelis and Palestinians alike. When it comes to human rights, the priority of the international community should be to stop Hamas from attacking Israelis and using Palestinians as human shields.

⁶ Merriam, John J. and Schmitt, Michael N., Israeli Targeting: A Legal Appraisal (April 20, 2015). 68:4 Naval War College Review 15-33 (Autumn 2015). Available at SSRN: <https://ssrn.com/abstract=2596836>; High Level Military Group, AN ASSESSMENT OF THE 2014 GAZA CONFLICT, Friends of Israel Initiative. October 2015. Pg. 72. <http://www.high-level-military-group.org/pdf/hlmg-assessment-2014-gaza-conflict.pdf>

⁷ Human Rights Watch, “Q & A on Hostilities between Israel and Hamas,” November 21, 2012, at <http://www.hrw.org/news/2012/11/20/q-hostilities-between-israel-and-hamas>

⁸ Richard Goldstone, “Reconsidering the Goldstone Report on Israel and War Crimes,” Washington Post, April 1, 2011, at http://articles.washingtonpost.com/2011-04-01/opinions/35207016_1_drone-image-goldstone-report-israeli-evidence

⁹ Richard Kemp, “A salute to the IDF,” Jerusalem Post, June 15, 2011, at <http://www.jpost.com/Opinion/Op-Ed-Contributors/A-salute-to-the-IDF>; Richard Kemp, “Col. Richard Kemp on the IDF & Hamas in Gaza,” YouTube, August 14, 2014, at <https://www.youtube.com/watch?v=QbD82ECZK1U>

¹⁰ Schmitt, Michael N. and Merriam, John J., The Tyranny of Context: Israeli Targeting Practices in Legal Perspective (April 12, 2015). 37 University of Pennsylvania Journal of International Law 53-139 (2015). Available at SSRN: <https://ssrn.com/abstract=2593629>; “Missions Statement.” Law.idf.il. Accessed September 07, 2017. <http://www.law.idf.il/320-en/Patzar.aspx>

¹¹ “Operation Protective Edge Investigations of Exceptional Incidents.” Mfa.gov.il. Accessed September 07, 2017. <http://mfa.gov.il/MFA/ForeignPolicy/IsraelGaza2014/Pages/Operation-Protective-Edge-ivestigation-of-exceptional-incidents-Update-4.aspx>; High Level Military Group, AN ASSESSMENT OF THE 2014 GAZA CONFLICT, Friends of Israel Initiative. October 2015. Pg. 72. <http://www.high-level-military-group.org/pdf/hlmg-assessment-2014-gaza-conflict.pdf>