

# Military investigations whitewash Israeli war crimes

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Five military investigations into war crimes committed by Israeli Defence Force soldiers during Operation Cast Lead, the attack on Gaza in December-January, have ended in a whitewash.

The investigators asserted, “Out of dozens of instances that we investigated, the IDF was shown to have conducted itself during the fighting in keeping with international law, and it maintained a high level of professional and moral integrity. Throughout the fighting in Gaza the IDF operated in accordance with international law.”

While there had been “a very small number of incidents” where soldiers had unintentionally killed Palestinian civilians in Gaza, this was the result of “intelligence or operational errors”. “We didn’t find one incident in which an Israeli soldier intentionally harmed innocent civilians,” Major General Dan Harel, the Israeli military’s deputy chief of staff, told reporters.

War crimes were widespread during the Gaza offensive. Israel’s 22-day operation, its second attempt to eliminate Hamas as a political and military force, was itself a contravention of international law which outlaws regime change as a *casus belli*. It was given the green light by the United States and mounted with the agreement of and in coordination with Egypt and Jordan, as well as Mahmoud Abbas’s Fatah-led Palestinian Authority in Ramallah.

Just days after the assault began, the Lebanese daily *Al-Safir* reported that Fatah warlord, Mohamed Dahlan, who had been based in Gaza before Hamas took power in June 2007, had arrived in Egypt in the hope of reasserting Fatah control. “Only 36 hours after the launch of Israel’s air war, officials swarmed to Cairo from Ramallah, Amman, Washington and Tel Aviv,” the newspaper reported.

“The engine driving the activity was Palestinian leader Mohamed Dahlan, who had just arrived from the West Bank. Some 400 Palestinian police followed Dahlan to Egypt, where they concentrated in Al-Arish (close to the Egypt-Gaza border) to await orders to enter the strip in the event that the Hamas leadership was destroyed or if it surrendered,” *Al-Safir* reported.

Israel’s assault was waged against a largely unarmed and defenceless population. The IDF killed 1,400 people, the

majority of them civilians, including 400 women and children, injured at least 5,000 people, and destroyed 21,000 homes and much basic infrastructure including water and sewerage treatment works. Israel suffered only 13 deaths and several of these were by “friendly fire.”

United Nations Secretary General Ban Ki Moon suggested there was *prima facie* evidence of Israeli war crimes. The International Criminal Court prosecutor received 150 separate communications over allegations of war crimes. The Red Cross broached the possibility of the IDF facing charges of war crimes for denying medical aid to the wounded and obstructing ambulances.

The Physicians for Human Rights-Israel and the Palestinian Medical Relief Society recently published a 92-page report, compiled by five senior health experts from across the world. Their findings show that Israel’s military committed serious violations of international humanitarian law. They document several specific attacks, with interviews from 44 separate witnesses.

The military investigations examined charges that Israeli soldiers targeted civilians, killed medical crews trying to help wounded Palestinians, used heavy artillery and white phosphorous shells in densely populated areas, needlessly demolished hundreds of Palestinian homes, destroyed public infrastructure and attacked United Nations compounds.

Rather than admit any wrongdoing, Major General Harel went on to blame Hamas for civilian casualties, saying that such incidents were “unavoidable and occur in all combat situations, in particular of the type which Hamas forced on the IDF, by choosing to fight from within the civilian population.”

Such claims are manifestly absurd. Hamas had nowhere else to defend itself, given that Israel controls Gaza’s land and sea borders and long ago destroyed its landing strip.

The assertion by the military investigations that “no phosphorus munitions were used on built-up areas” is also contradicted by the evidence. Immediately after major fighting stopped, researchers in Gaza from the New York-based Human Rights Watch found spent white phosphorous artillery shells, canister liners, and dozens of burnt felt wedges containing white phosphorus on city streets and apartment roofs, in residential courtyards, and at a United Nations school. Artillery

shells containing white phosphorus also struck a hospital and the headquarters of the United Nations Relief and Works Agency for Palestinian Refugees (UNRWA) in Gaza City.

Crucially, the military inquiries examined the conduct of individual soldiers, not the policies governing the conduct of the war and allegations that the commands given were illegal.

There is ample evidence that the reported incidents of misconduct were not aberrations but deliberate policy. The legal expert, Valentina Azarov, who works for the HaMoked human rights organisation, believes, “The operations were part of the military strategy called the ‘Dahiyah policy’, being that of indiscriminate killing and the use of excessive, disproportionate force”.

She points to several publications showing that the IDF had developed a new military strategy, named after the bombardment of Dahiyah, the Shia residential quarter of Beirut considered a Hezbollah stronghold during the Lebanon war in 2006.

IDF Commander of the northern troops Gadi Eizencout first described this strategy in an interview with *Yedioth Aharonoth* last October. He explained, “What happened to the Dahiyah neighbourhood of Beirut in 2006 will happen to each village from which Israel is fired on. We will apply disproportionate force and inflict huge damage and destruction. In our mind, these are not civilian villages but army bases... the next war must be decided quickly, aggressively, and without seeking international approval.”

“This is not a recommendation, this is a plan and it has already been approved,” he continued.

Colonel Gabriel Siboni wrote a report for the Institute for National Security Studies (INSS), a military think tank in Tel Aviv, at about the same time. He stated, “With an outbreak of hostilities, the IDF will need to act immediately, decisively, and with *force that is disproportionate to the enemy’s actions and the threat it poses*. Such a response aims at inflicting damage and meting out punishment to an extent that will demand long and expensive reconstruction processes.” [Emphasis added]

Major-General Giora Eiland, writing for the INSS, goes further. He argues that Israel was fighting the wrong enemy—Hezbollah—during the 2006 Lebanon war, and in the next war should target the government and civilian infrastructure.

Major-General Eiland argues in an article on Ynet, “The only good thing that happened in the last war was the relative damage caused to Lebanon’s population. The destruction of thousands of homes of ‘innocents’ preserved some of Israel’s deterrent power.”

As Azarov explained, “It transpires that there was no intention to comply with basic principles of international humanitarian law, such as the principle of distinction or the obligation to use appropriate precautions before launching an attack”.

“The soldiers’ testimonies are what unequivocally

exemplifies the fact that this was the overarching goal of the whole war—it was systematic and based on policy decisions,” she continued.

*Ha’aretz* published a 10-page report in January by Yotam Feldman and Uri Blau, revealing how the IDF’s International Law Division provided legal advice from the planning stages up to and including the Gaza assault. Legal experts maintain that the IDF harnessed the law to harm civilians and bomb government buildings. The report revealed that IDF’s plan to bomb the closing ceremony of a police course—carried out on the first day of the operation—was being internally discussed months before the start of the war.

Human rights organisations B’Tselem, Yesh Din, Physicians for Human Rights, the Association for Civil Rights in Israel, and the Public Committee Against Torture issued a joint statement following the release of the military investigations’ report, saying that the deaths of Palestinian civilians were the direct result of the army’s policies.

Last week, Norway’s chief prosecutors said that they would review a request from a group of attorneys to investigate Israel’s top leaders for war crimes. A special United Nations human rights team, led by South African war crimes prosecutor Richard Goldstone with experts from Pakistan, Ireland and Britain, is preparing to investigate all war crimes allegations against both Israel and Hamas before, during and after the Gaza offensive.

The Israeli government has refused to cooperate with the UN investigation. A senior foreign ministry official said that Israel would not allow the four-person delegation to enter the country since its mandate was “one-sided” and said nothing about the missile launching against Israeli population centres preceding and during Israel’s 22-day offensive on Gaza. Israel has a record of refusing entry to UN personnel. Last December it deported UN special rapporteur for the occupied territories, Professor Richard Falk, and turned Archbishop Desmond Tutu’s UN mission away three times between 2006 and 2008.



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