

# Israel understated civilian death toll in Gaza

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A report by B'Tselem, the Israeli human rights group, shows that 1,387 Palestinians were killed during Israel's assault on the Gaza Strip last December and January. More than half of them, 773, were civilians, and 290 were under 17 years of age.

These findings, which were carefully crosschecked, flatly contradict the Israeli Defence Force (IDF), which claimed that 1,166 Gazans were killed in the conflict, of whom 709 were militants from Hamas and other groups opposed to Israel, 295 civilians, with 89 of them under age 16.

B'Tselem's figures confirm numerous other estimates that Israel's offensive against a largely unarmed and defenceless population killed about 1,400 people, the majority of them civilians, including 400 women and children, injured at least 5,000 people, and destroyed 21,000 homes. The Israeli siege left the territory in ruins, with more than half of Gaza's 27 hospitals and 44 clinics damaged by Israeli bombs, according to the World Health Organisation.

The one-sided nature of the conflict is emphasised by the 13 Israelis killed during the whole campaign. Six died in the fighting and a further four soldiers were killed by friendly fire. Three civilians in Israel died when they were hit by rockets launched from Gaza.

B'Tselem followed the approach of the International Committee of the Red Cross (ICRC), which was itself the result of six years of work by experts in international humanitarian law, given the growing number of armed conflicts around the world in which civilians have died.

The basic assumption is that everyone is a civilian unless shown to be otherwise, and as such are not legitimate objects of a military attack. According to the ICRC, only people who fulfil a "continuous combat function" are a legitimate object of attack, even if they are not at the moment of attack directly involved in hostilities.

B'Tselem's figures show that of those killed, only 330 were militant oppositionists involved in the hostilities. A further 248 were police officers killed at police stations. While many of these may have been members of Hamas' armed militia and may have taken part in hostilities against Israel, under the laws of warfare, Israel needed concrete proof that a policeman was integrated into the militia and

thus a non-civilian before he was a legitimate object of attack.

The human rights organisation therefore classified the police according to whether there was evidence of affiliation to an armed militia, and its figures of civilians reflect this (lack of) evidence.

International humanitarian law prohibits attacking civilians. All feasible precautions must be taken to protect civilians from death and injury and to ensure that their injury is not excessive relative to the attack. Both the perpetrators of the attacks and their commanding officers bear criminal responsibility for breaching these principles. Where non-combatants have died, the attacking army must carry out an independent and effective investigation into the circumstances in order to verify whether its forces acted lawfully.

B'Tselem said, "The extremely heavy civilian casualties and the massive damage to civilian property require serious introspection on the part of Israeli society," adding that it considered the army's own internal inquiries inadequate. While it criticised the "illegal and immoral actions" by Palestinian militants accused of hiding among the civilian population, this "cannot legitimise such extensive harm to civilians by a state committed to the rule of law," B'Tselem added.

Israel faced numerous allegations of war crimes during its assault on Gaza last winter. But the major powers have thus far been able to stifle all attempts to bring Israel to account.

Last January, the Red Cross broached the possibility of the IDF facing charges of war crimes for denying medical aid to the wounded and preventing ambulances from reaching their destinations. Physicians for Human Rights-Israel accused the army of repeatedly violating its own ethics code, and possibly international law, by impeding the evacuation of the sick and wounded and by endangering medical teams operating in Gaza. A report by human rights advocates who visited Gaza after the war accused Israeli soldiers of shooting children, bulldozing a home with a woman and a child inside, and shelling a building they had ordered civilians to enter one day earlier. Amnesty International accused Israel of committing war crimes.

The United Nations human rights investigator for the Palestinian territories, Richard Falk, issued a report declaring that Israel's siege of Gaza "would seem to constitute a war crime of the gravest magnitude under international law." It described the Israeli campaign as a "massive assault on a densely populated urbanized setting" that subjected civilians to "an inhumane form of warfare that kills, maims and inflicts mental harm."

Falk listed war crimes such as the "targeting of schools, mosques and ambulances" and the use of white phosphorus shells in densely populated neighbourhoods. The war on Gaza was not legally justified and could constitute a "crime against peace," he argued, the principal charge against the Nazi leaders tried at Nuremberg.

The Israeli government refused to cooperate with Falk's inquiries, denying entry to Israel of a four-person delegation.

Last May, a United Nations inquiry concluded that Israel's military forces carried out direct and intentional strikes on UN premises during the assault and was therefore responsible for the deaths and injuries of UN personnel and civilians, as well as extensive damage to its property. Despite the findings, UN Secretary General Ban Ki Moon bowed to pressure from the United States and Israel. He rejected—without any explanation—the inquiry's key recommendation that there should be a broader investigation into Israel's conduct during the assault on Gaza. Instead, he would seek \$10.4 million compensation from Israel for damage to UN property.

The International Criminal Court prosecutor reported that he had received 150 separate communications over allegations of war crimes, including the use of deadly white phosphorous in densely populated civilian areas and a new weapon known as DIME, which explodes with such force that it tears bodies apart.

Testimony of Israeli soldiers, published in Israeli newspapers, detailed atrocities in which they had participated or witnessed in Gaza and serious violations of the IDF's rules of engagement. The military police's criminal inquiry set up to investigate their allegations was closed down after just nine working days, with the military advocate dismissing the soldiers' allegations as hearsay and rumour.

A month-long investigation by the *Guardian* newspaper compiled detailed evidence of war crimes committed by Israel during the 22-day offensive, including the use of Palestinian children as human shields. Medics and ambulance men were targeted when they tried to tend to the wounded, and 16 were killed. The *Guardian* cited evidence of civilians being hit by fire from unmanned drone aircraft, "said to be so accurate that their operators can tell the colour

of the clothes worn by a target."

Israel was forced to launch its own military investigations into allegations of war crimes. But the government had made official commitments at the highest levels to shield soldiers from charges of war crimes. The inquiries were headed by colonels, relatively junior ranking officers, and took no evidence from those most able to describe what had happened—the Palestinian victims and witnesses in Gaza. Crucially, the military inquiries examined the conduct of individual soldiers, not the policies governing the conduct of the war and the allegations that the commands given were themselves illegal. Their findings were a whitewash.

It attempted to justify civilian deaths by saying that its armed forces had given warning of its impending attacks. But such warnings, which were in any event too vague and therefore not "effective" as required by international law, in no way sanction attacks that would otherwise be deemed unlawful.

The IDF admitted that "rare mishaps" did occur during Operation Cast Lead but denied that its troops violated international law, saying that 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, said.

Harel went on to blame Hamas for the 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."

The response of Ehud Barak, defence secretary and leader of the Labour Party, was to repeat his ludicrous claim that Israel has "the most moral army in the world" and to lay the blame on Hamas.

Israel's offensive, its second attempt to eliminate Hamas, the legally elected government, as a political and military force, was itself a contravention of international law that outlaws regime change as a *casus belli*. It was given the green light by the Bush administration 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.



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