

# “Balance” in UN Gaza Report Can’t Hide Massive Israeli War Crimes

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Palestinians pray over the bodies of eight members of the al-Haj family, killed when Israel bombed their Khan Younis house on 10 July 2014. This was one of the attacks investigated by an independent UN body that found extensive evidence of Israeli war crimes during last summer’s assault on Gaza. (Eyad Al Baba/APA images)

There can be no surprise that the [UN Human Rights Council’s](#) independent investigation of Israel’s assault on Gaza last summer found evidence of massive and systematic war crimes.

Its [report](#), published Monday in Geneva, says investigators were “able to gather substantial information pointing to serious violations of international humanitarian law and international human rights law by Israel and by Palestinian armed groups.”

“The extent of the devastation and human suffering in Gaza was unprecedented and will impact generations to come,” the chair of the investigation commission, Justice Mary McGowan Davis [told media](#), adding that “there is also ongoing fear in Israel among communities who come under regular threat.”

Despite the “balanced” language that is now the habitual refuge of international officials hoping to avoid false accusations of anti-Israel bias, the evidence shows that the scale and impact of Israeli violence dwarfs anything allegedly done by Palestinians.

Israel systematically targeted Palestinian residential buildings and infrastructure without any apparent military justification. The horror of what Israel did, detailed in the 183-page report, cannot be adequately summarized here.

In total, 2,251 Palestinians were killed, including 1,462 Palestinian civilians, among them 551 children, the report states. More than 11,000 Palestinians, including 3,540 women and 3,436 children, were injured with almost 10 percent suffering permanent disabilities.

Six civilians died in Israel and more than 60 Israeli soldiers died in fighting with the Palestinian resistance.

But a key finding is that the mass destruction and killing inflicted by Israel, often amounting to war crimes, “may have constituted military tactics reflective of a broader policy, approved at least tacitly by decision-makers at the highest levels of the Government of Israel.”

This finding provides an important basis for Palestinians to pursue Israeli leaders, not just their uniformed subordinates, and bring them to justice in international courts.

The report also confirms that Israel remains the occupying power in Gaza as far as international law is concerned, because it continues to exercise “effective control” over the territory. Israel is therefore subject to all the legal obligations of an occupying power to protect civilians there.

It also found a massive escalation of Israeli violations of Palestinian human rights in the occupied West Bank including East Jerusalem in the weeks preceding and during the Gaza assault that was “overshadowed by the tragic events in Gaza.”

## **Israeli obstruction**

The commission was made up of two independent experts: former New York Supreme Court Justice Mary McGowan Davis, who chaired it, and Senegal’s Doudou Diène, a former UN special rapporteur on racism.

The previous chair, Canadian international law expert William Schabas, resigned from the commission in February under relentless Israeli criticism and pressure.

Israel’s concern about the make up of the committee was not matched by a willingness to cooperate with its work. Israel refused to respond to any requests for information and barred the investigators from traveling to the occupied West Bank and Gaza Strip or to present-day Israel.

The Egyptian military regime also colluded with Israel by blocking investigators entering Gaza through the [Rafah crossing](#).

Nonetheless, the investigators and their staff conducted hundreds of interviews with victims and witnesses, received hundreds of written submissions and obtained large amounts of data from other UN bodies. They also consulted satellite imagery, independent military experts, government documents and statements and evidence gathered by independent organizations.

## **Deliberate attacks on civilians**

Israel carried out more than 6,000 airstrikes on Gaza last summer, the report states, including “targeted attacks on residential and other buildings.”

As a result of these attacks, 142 Palestinian families “had three or more members killed in the same incident owing to the destruction of residential buildings,” for a total of at least 742 deaths, according to UN figures.

The report examines in detail 15 attacks on residential buildings in which a total of 216 people were killed, including 115 children and 50 women. Israel refused to provide any information on what made these buildings alleged military targets.

## **Killed while they slept**

In one of the incidents, at 2 am on 10 July, Israel attacked the house of Mahmoud al-Haj in Khan Younis. All eight members of the family were killed, including two children and three women. The bomb completely destroyed the house and damaged surrounding homes injuring 20 more people, mostly women and children.

In another attack, on the afternoon of 21 July, Israeli forces fired two missiles at the five-story building of the al-Qassas family, killing nine people, including six children and three women, one of them pregnant. Another 10, mostly children and one a baby, were injured.

The investigators could find no information to suggest “that there was a military target in the al-Qassas building.”

This was frequently the case. “In many of the cases examined by the commission, as well as in incidents reported by local and international organizations,” the report states, “there is little or no information as to how residential buildings, which are prima facie civilian objects immune from attack, came to be regarded as legitimate military objectives.”

## **Israeli justification debunked**

The report does find that “indications of possible military objectives emerged in nine of the 15 cases” of attacks on residential buildings that it examines.

But it says that “the potential targets of the attack seem to have been mostly individuals who were or who could have been present in the building that was struck, indicating that one or several individuals were the likely target and not the building itself.”

Here, the report refutes one of the major Israeli justifications for attacking homes: that someone associated with an armed group lives in one. However, the report “underlines that the mere fact of being a member of the political wing of Hamas or any other organization in Gaza, or working for the authorities ... is not sufficient in and of itself to render a person a legitimate military target.”

It adds that “under international humanitarian law, a member of an armed group has to have a continuous combat function to constitute a legitimate military target.”

Even if the person were a “legitimate military target,” Israel’s method of attacking homes is disproportionate, indiscriminate and illegal.

The investigators also consulted military experts who found that the types of US-supplied bombs Israel dropped – such as the GBU-32/MK-82 1,000 lb bomb or the GBU-31/MK-84 2,000 lb bomb – have such a wide impact that their use amounted to indiscriminate attacks.

During the attack, Israel often boasted about its use of a smaller “warning missile” or “knock on the roof” to tell residents to get out of a building minutes before a much bigger explosion. But the report concludes “that the ‘roof-knocking’ technique is not effective” and there were many instances in which civilians were killed despite such warnings.

## **Destruction of Shujaiya**

On 19 and 20 July, Israel carried out a massive artillery bombardment of the [Shujaiya](#) neighborhood of eastern Gaza City, killing at least 55 people, including 19 children and 14 women.

As The Electronic Intifada [reported last year](#), the type of weapons used – predominantly heavy artillery and mortars – means the attack could not but have been indiscriminate.

Israel also used over 100 one-ton bombs in the attack which destroyed 670 buildings and damaged another 1,200.

The UN report now confirms that “these methods and means employed by the [Israeli army] could not, in such a small and densely populated area, be directed at a specific military target and could not adequately distinguish between civilians and civilian objects and military objectives as required by [international humanitarian law].”

“Therefore,” the report concludes, “there are strong indications that the IDF’s [Israeli army] Shujaiya operation on 19 and 20 July was conducted in violation of the prohibition of indiscriminate attacks and may amount to a war crime.”

## **Human shields**

Similarly, the report examines and finds evidence of war crimes during Israel’s siege and shelling of the village of [Khuzaa](#) between 20 July and 1 August and its [massive bombardment](#) of the southern city of [Rafah](#) after one of its soldiers was reported captured on 1 August.

Israel also used human shields in Khuzaa, a farming village in east central Gaza. On 23 July, for instance, 17-year-old Ahmed Abu Reda was abducted by Israeli soldiers from his family as they tried to flee the area.

He was kept hostage for five days during which he was interrogated and, according to his father, forced to undertake “risky tasks such as opening doors, inspecting rooms, switching the lights on and off to test whether secret explosives were being connected to the light switches, open fridges and other devices that may have detonated explosions.”

It concludes that “there are strong indications that elements of the IDF operation in Khuzaa may qualify as direct attacks against civilians or civilian objects and may thus amount to a war crime.”

In Rafah, Israel implemented the “[Hannibal Directive](#),” a procedure which calls for massive fire to prevent a soldier being captured even if it kills the soldier.

The report cites Israel’s “military culture” resulting from this and other policies as “a contributing factor for the unleashing of massive firepower on Rafah, in total disregard for its impact on the civilian population.”

It also finds that Israeli commanders continued the attack for hours even when they must have known about the catastrophic death and injury they were causing to civilians – in itself a potential war crime.

## **Accusations against Palestinians**

Any Israeli claim that the investigation is biased is refuted by the accusations the report levels against Palestinian resistance groups.

It says the investigators have “serious concerns with regard to the inherently indiscriminate nature of most of the projectiles directed towards Israel by these groups and to the targeting of Israeli civilians, which violate international humanitarian law and may amount to a war crime.”

It also condemns the extrajudicial executions by Hamas of two dozen Palestinians accused of collaborating with the enemy as a war crime. These executions had already been condemned by Palestinian and international human rights organizations.

Yet in many of the specific instances examined by the committee, especially those involving mortar fire at Israeli targets near the Gaza boundary, the investigators found that Palestinians were aiming at Israeli military targets that were often deliberately placed close to civilian communities.

### **Military bases near civilians**

The report notes “a number of military objectives are located in various parts of Israel, in some cases in the immediate vicinity of built up areas such as the Hatzor airbase, or in the case of the IDF Headquarters, in the midst of a densely populated area.”

It adds that during the attack on Gaza, “the number of IDF positions in the south of Israel around Gaza, sometimes close to civilian communities, was higher than usual.”

“Mortar fire by the Palestinian armed groups appears to have often been aimed at specific targets and is more precise than the rockets in the armed groups’ arsenal,” the report states.

On 22 August 2014, 4-year-old Daniel Tregerman, the only Israeli child fatality in the conflict, was killed by a mortar shell in his home at Kibbutz Nahal Oz, 2 kilometers from the Gaza boundary.

The report notes that this too was an area of intense military activity.

“Based on the information available,” the report states, “the commission cannot exclude that the intended target of the tragic attack of 22 August on Kibbutz Nahal Oz was the IDF Chief of Staff.”

### **Israeli claims hard to verify**

The report acknowledges that in many cases, Palestinian armed groups warned Israeli civilians, especially in the areas near Gaza, and when they fired rockets towards Ben Gurion Airport, of impending attacks.

The investigators say they asked Israel for “detailed information” on “where the rockets and mortars fired by Palestinian armed groups in Gaza actually landed so as to make a more detailed assessment of the proportion of cases in which they were directed at densely populated areas in Israel.”

But Israel – which is always eager to tell global media about how its civilians are the main targets of Palestinian groups – refused, making it “difficult for the commission to determine the extent to which attacks [were] directed at the civilian population in Israel.”

### **Legitimate military targets**

As for tunnels dug from Gaza into present-day Israel, the report is blunt: “during the period under examination, the tunnels were only used to conduct attacks directed at IDF positions in Israel in the vicinity of the Green Line, which are legitimate military targets.”

The report concedes, however, that “in the vast majority of individual rocket and mortar attacks, the commission does not have information on the intended targets, but notes that Palestinian armed groups announced that they intended to attack population centers in Israel and declared responsibility for launches directed at different places in Israel.”

It also notes that the “majority of projectiles fired by Palestinian armed groups consisted of rockets that at best were equipped with only rudimentary guidance systems and in the vast majority of cases had none at all.”

It acknowledges that the “limitations of the military arsenals of Palestinian armed groups was advanced as a reason for their failure to attack precisely military targets.”

“Security experts have noted that while the al-Qassam Brigades [the military wing of Hamas] may have targeted civilians in the past as part of its military strategy, in 2014 its declared official policy was ‘to focus on military or semi-military targets and to avoid other targets, especially civilians,’” the report observes.

But it notes that under the relevant international law, the “military capacity of the parties to a conflict is irrelevant to their obligation to respect the prohibition against indiscriminate attacks.”

While this may be the case, what it indicates is that if Palestinians exercising a legitimate right to resistance and self-defense were allowed access to more precise weapons, most of the activities designated as possible war crimes in the report would probably not have occurred.

This is not true, however, in the case of Israel, which boasts about its very precise weapons and yet inflicted massive amounts of death, injury and destruction on civilians as a result of its policy of targeting them.

Instead, Palestinian resistance groups are designated as “terrorists” and barred from obtaining more accurate weapons, while the United States, European Union and other governments continue to supply Israel’s massive arsenal.

The report, if anything, displays a distinct anti-Palestinian bias, using the word “resistance” only between quotation marks as if the right to resist belligerent military occupation is not a well-recognized right in international law.

## **Analysis**

The report looks at the events in Palestine through the strict lens of international humanitarian and human rights law. In doing so it finds evidence that both Palestinians and Israelis committed war crimes and other violations.

But the crimes allegedly committed by Israel are massive compared to anything allegedly done by Palestinians.

There can also be no moral equivalence between the legitimate self-defense and resistance of a people under occupation and the aggression of an occupier whose aim is to subject millions of people to its unopposed military tyranny.

It is also apparent that most, though not all, of the transgressions alleged against

Palestinians are an artifact of the inferior and unguided weapons, often locally made in Gaza, that are available to resistance groups.

But the approach of the so-called “international community” has been to deny Palestinians the means to resist against Israeli occupation forces and then to condemn them for using what they have.

Despite this, the fact remains that while Israel mostly killed civilians, Palestinians mostly killed Israeli soldiers. Indeed, 65 percent of those killed by Israel were civilians, while 90 percent of those killed by Palestinians were *armed combatant soldiers*.

Nothing is more legitimate than Palestinian resistance and nothing is more illegitimate than Israeli occupation. And yet it is to Israel that weapons of massive destruction continue to flow, often from the countries that preach loudest about human rights and international law.

## **Means of resistance**

It is clear that many governments and international organizations tacitly reject the Palestinian right to resist militarily even if they do not say so openly. Many supporters of Palestinian rights and many Palestinians prefer nonviolence, believing that in the long run it will make a just peace more feasible.

If that is the case, then everyone must be proactive in offering support for nonviolent alternatives that can help redress the balance of power between a tenacious belligerent occupier and its victims.

Boycott, divestment and sanctions, for instance, must be recognized and promoted by the so-called international community as a legitimate means of resistance supplementing other forms of legitimate resistance to colonial occupation.

As for Israel, its strategy with this investigation as in others, was to try to obstruct it and then to whine that it is unfair and biased. If Israel is so certain that its actions were legal and correct, it should have nothing to hide.

Given the consequences if the report’s call for accountability were to be implemented, it is no surprise that the government of Prime Minister Benjamin Netanyahu and its staunch ally, the US administration of President Barack Obama, have attacked and delegitimized the UN investigation from the very start.

It remains to be seen if others will have the courage to demand accountability and ensure this report is not buried like the [Goldstone report](#) into Israel’s 2008-2009 massacre in Gaza.

Without such accountability, another Israeli massacre in Gaza is only a matter of time.

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