

The Experts' Verdict: Every Israeli Missile Strike is a War Crime

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Today's Guardian includes an article that appears to be excusing Israel of responsibility for the massive death toll it has inflicted on Palestinian civilians. But, more significantly, it includes a lot of useful - and damning - information about just how "indiscriminate" Israel's weapons really are.
[\[http://www.theguardian.com/world/2014/jul/31/gaza-civilian-death-toll-military-training-experts\]](http://www.theguardian.com/world/2014/jul/31/gaza-civilian-death-toll-military-training-experts)

This interests me a great deal because I have been warning about problems with the interpretation of international law used by leading human rights groups on this very point since the 2006 Lebanon War.

At that time I got into a dispute with Human Rights Watch's Middle East policy director, Sarah Leah Whitson. Her organisation argued that Hizbullah was committing war crimes by definition whenever it fired rockets at Israel, even if it hit military targets, because those rockets were primitive and inherently inaccurate.

By contrast, HRW claimed, Israel's missiles were precise and therefore their use was not inherently inadmissible. Its view was that Israel did not commit war crimes by firing its missiles; the obligation was on observers to show that they had not been used within the rules of war - which is a much harder standard of proof. For more on this debate, see my articles [here](http://www.jonathan-cook.net/2006-09-07/how-human-rights-watch-lost-its-way-in-lebanon/) [\[http://www.jonathan-cook.net/2006-09-07/how-human-rights-watch-lost-its-way-in-lebanon/\]](http://www.jonathan-cook.net/2006-09-25/human-rights-watch-still-missing-the-point/) and [here](http://www.jonathan-cook.net/2006-09-25/human-rights-watch-still-missing-the-point/) [\[http://www.jonathan-cook.net/2006-09-25/human-rights-watch-still-missing-the-point/\]](http://www.jonathan-cook.net/2006-09-25/human-rights-watch-still-missing-the-point/).

In practice, HRW's argument was nonsense, as was clear even in 2006. During that war, Israel dropped millions of cluster munitions - little bomblets that serve effectively as land mines - all over southern Lebanon, endangering the whole civilian population of the area.

But Norman Finkelstein recently pointed out the more general problem with HRW's argument:

"By this standard, only rich countries, or countries rich enough to purchase high-tech weapons, have a right to defend themselves against high-tech aerial assaults. It is a curious law that would negate the raison d'être of law: the substitution of might by right."

It may not be entirely surprising that HRW and others interpret international law in a way that serves rich and powerful western states, however many civilians they kill, and criminalises developing states, however few civilians they kill.

The current fighting in Gaza illustrates this point in dramatic fashion. Some 95% of the 64 Israelis who have been killed during the current fighting are soldiers; some 75% of the nearly 1,500 Palestinians who have been killed are civilian.

But comments from experts in the Guardian article add another layer of insight into HRW's dubious distinctions.

One should ignore the irritating framing used in the article, which seems to suggest that the high Palestinian death toll may be down to human or systems errors. Experts discount this theory in the article and also point out that Israel is often not checking whether its shooting is accurate. In other words, it gives every indication of not taking any precautions to ensure it is hitting only military targets (or rather targets it *claims* are military in nature). That recklessness makes it fully culpable.

But we also have experts cited here who make the point that much of Israel's precise weaponry is not accurate at all.

Andrew Exum, a former US army officer and defence department special adviser on the Middle East, who has studied Israel's military operations, says this:

"There are good strategic reasons to avoid using air power and artillery in these conflicts: they tend to be pretty indiscriminate in their effects and make it difficult for the population under fire to figure out what they're supposed to do to be safe."

"Pretty indiscriminate"! So doesn't that mean Israel was committing war crimes by definition every time it made one of those thousands of air strikes that marked the start of Operation Protective Edge, and that continue to this day?

But it is not just strikes from the air that are the problem. There is more:

"However, military analysts and human rights observers say the IDF is still using unguided, indirect fire with high-explosive shells, which they argue is inappropriate for a densely populated area like Gaza ...

"[Israel's 155m howitzer] shells have a lethal radius of 50 to 150 metres and causes injury up to 300 metres from its point of impact. Furthermore, such indirect-fire artillery (meaning it is fired out of direct sight of the target) has a margin of error of 200 to 300 metres."

Read that again: a margin of error of up to 300 metres, plus a lethal radius of up to 150 metres and an injury radius of 300 metres. So that's a killing and injury zone of close to half a kilometre from the intended "precise" site of impact - in a territory that is only a few kilometres wide and long. In short, one of the main shells Israel is using in Gaza is completely imprecise.

Set aside what Israel is trying to do in Gaza. Let us assume it is actually trying to hit military

targets rather than being either reckless about hitting civilian targets or deliberately trying to hit civilians, as much of the evidence might suggest.

Even if we assume total good faith on Israel's part that it is trying to hit only Hamas and other military sites, it is clear it cannot do so even with the advanced weaponry it has. The inherent imprecision of its arsenal is compounded many fold by the fact that it is using these weapons in densely built-up areas.

So when are we going to hear HRW or the United Nation's Navi Pillay stop talking about proportionality or Israel's *potential* war crimes, and admit Israel is committing war crimes by definition – right now, as you read this.

Jonathan Cook won the Martha Gellhorn Special Prize for Journalism. His latest books are "Israel and the Clash of Civilisations: Iraq, Iran and the Plan to Remake the Middle East" (Pluto Press) and "Disappearing Palestine: Israel's Experiments in Human Despair" (Zed Books). His website is www.jonathan-cook.net.

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