

Defending Israel
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Last summer Israel again had to protect itself against murderous attacks by Hamas on Israeli civilians. Israel conducted Operation Protective Edge in order to stop rocket bombardments and terrorist tunnel infiltrations.

The mission succeeded. In the process, only because of the tactics of Hamas, civilian casualties inevitably occurred. This was a result Hamas wanted: for its own civilians to die in order to be able to criticize Israel.

Late last month an investigation exonerated Israel. The investigators were eleven former chiefs of staff, generals, senior officers, political leaders and other officials from the United States and seven of our allies, including Germany and the United Kingdom. The group was called the High Level International Military Group. Its leader was General Klaus Naumann, former Chief of Staff of the unified military forces of Germany and Chairman of the NATO Military Committee.

Their mission to Israel was unprecedented. They were the first such multi-national group of senior officers to visit the country. They were granted a level of access to the Israeli government and IDF that has not been afforded to any other group, from Prime Minister Benjamin Netanyahu right down to the field commanders responsible for fighting the battle on the ground.

The Group knew that the United Nations and some so-called human rights groups had accused Israel of acting outside the laws of armed conflict. The Group came to Israel to find out the truth for themselves.

Their investigation led them to the opposite conclusion. They examined the circumstances that led to the tragic conflict last summer. They concluded without doubt that Israel sought to avoid the conflict and exercised great restraint over a period of months before the war, even though its citizens were being targeted by rocket attacks from Gaza. Once the war began, Israel made repeated efforts to terminate the fighting. Bottom line: The war that Israel was eventually compelled to fight against Hamas was a legitimate war, necessary to defend its citizens and its territory against sustained attack from beyond its borders.

Hamas's rocket attacks deliberately and indiscriminately targeted Israeli civilian population centers. There is no doubt, the Group concluded, that all of these attacks constitute war crimes.

Hamas also constructed an array of tunnels, using materials diverted from humanitarian supplies, that penetrated the border between Gaza and Israel, in many cases emerging close to civilian communities. The Group found that these tunnels were designed to attack, kill and abduct Israeli civilians. This again constitutes a war crime, the Group concluded.

Hamas launched attacks against Israel from the heart of its own civilian communities in Gaza and positioned its munitions and military forces in schools, hospitals and mosques. As well as carefully documented IDF evidence of this, the High Level International Military Group viewed media footage confirming several cases. They were also aware of senior Hamas officials' own claims to have used human shields. A recent report by the UN Secretary General confirmed that in some cases Hamas even used UN facilities for storing munitions and launching attacks.

Again, the Group found that these actions clearly amount to war crimes. The laws of armed conflict not only forbid the use of human shields but also demand that combatant forces ensure their civilians are physically evacuated from combat areas. Hamas made no effort to evacuate civilians; on the contrary, there are documented cases of them compelling civilians to remain in or return to places where they expected Israeli attacks to come.

The IDF employed a series of precautionary measures to reduce civilian casualties. The armies of each country represented on the High Level International Military Group are committed to protecting civilian life during combat. But the Group did not know of any army that takes such extensive measures as did the IDF last summer to protect the lives of the civilian population in such circumstances.

The Group was briefed on the IDF's strict procedures and standards for confirming the validity of a military target and the presence or absence of civilians, and the stringent requirements for both military and legal authorization to attack a target. They were briefed on some cases where the IDF declined to attack known military targets due to the presence of civilians, risking, and in some instances costing, Israeli lives.

Measures taken to warn civilians included phone calls, text messages, leaflet drops, radio broadcasts, communication via Gaza-based UN staff and the detonation of harmless warning explosive charges, known as "knock on the roof." Where possible the IDF sought also to give guidance on safe areas and safe routes.

The Group also studied the IDF's proportionality principles and calculations used in circumstances where an attack was likely to result in civilian deaths. They concluded that, in general, Israeli forces acted proportionately as required by the laws of armed conflict and often went beyond the requirements of these laws.

Beyond all that, the Group learned about Israel's humanitarian efforts to reduce the suffering of the civilian population in Gaza. The measures taken were often far in excess of the requirements of the Geneva Conventions. They sometimes placed Israeli lives at risk. To an extent these steps also undermined the effectiveness of the IDF's operations by pausing military action and thus allowing Hamas to re-group and replenish. Supplies provided to the civilian population by Israel were often commandeered by Hamas for military use.

The group recognized that over 2,000 people died in Gaza during the conflict. In a population of approximately 1.8 million, over a 50-day period many would have died of causes unrelated to the fighting. Some of those who died were killed by Hamas's own attacks against Israel that went wrong. Moreover, Hamas murdered at least twenty-three people in Gaza during this period, and tortured dozens more.

On the basis of close scrutiny of open source records as well as from secret intelligence, the Group learned that over half of those declared dead were combatants from Hamas and other groups that were engaged in the fighting – a figure higher than that commonly asserted by the UN, which takes its own assessment from Hamas sources. This nevertheless leaves a deeply concerning number of civilian deaths, perhaps around 1,000, many of whom were killed as a result of Israeli military action.

The Group understood that some of these deaths were caused by error and misjudgment. But they also recognized that the majority of deaths were the tragic inevitability of defending against an enemy that deliberately carries out attacks from within the civilian population. The Group therefore concluded that Hamas and its terrorist associates, as the aggressors and the users of human shield, were responsible for the overwhelming majority of deaths in Gaza this summer.

The Group agreed with the assessment made earlier by General Martin Dempsey, Chairman of the US Joint Chiefs of Staff. The Pentagon mounted a fact-finding mission to Israel last fall. Its purpose was to learn from Israel how to avoid civilian casualties as much as possible. Following that mission, General Dempsey said publicly that Israel went to extraordinary lengths to limit collateral damage and civilian casualties.

The High Level International Military Group made the following summary conclusion to their report:

During Operation Protective Edge last summer, in the air, on the ground and at sea, Israel not only met a reasonable international standard of observance of the laws of armed conflict, but in many cases significantly exceeded that standard. We saw clear evidence of this from the upper to the lower levels of command. A measure of the seriousness with which Israel took its moral duties and its responsibilities under the laws of armed conflict is that in some cases

Israel's scrupulous adherence to the laws of war cost the lives of Israeli soldiers and civilians.

In light of the unanimous view of this group of military experts, as well as the favorable opinion of our own General Dempsey, Chairman of the United States Joint Chiefs of Staff, it would be reasonable to expect praise for Israel's conduct of this purely defensive war waged against a terrorist organization.

Sadly, but not surprisingly, we recently saw the opposite. This week the United Nations Human Rights Council issued its report on the 2014 war in Gaza. The report was an improvement over the one-sided Goldstone Report following the 2008 war, but not a great improvement. The report does mention outrageous war crimes committed by Hamas. But most of its criticism is leveled against Israel.

This is no surprise. The United Nations has sadly become a forum for the criticism of Israel to the exclusion of practically every other country in the world. As a result, nobody should take its criticisms of Israel seriously.

Just one recent example makes the point. Last month the annual assembly of the World Health Organization, by a vote of 104 to 4, singled out Israel as a violator of health rights. This was the assembly's only treatment of a specific country situation. They made this absurd claim even as Israeli hospitals were providing life-saving treatment for escalating numbers of wounded Syrians fleeing to the Golan from the Assad regime's barbaric attacks.

The W.H.O. assembly voted to investigate Israel to the exclusion of all other countries, ignoring actions by the Palestinian Authority, by Hamas, by Islamic Jihad, by Syria, by ISIS, by Saudi Arabia, just to name a few that richly deserved the condemnation reserved for Israel alone.

And yet, with all the clear evidence of the UN's obvious bias against Israel, on Tuesday of this week the New York Times published an editorial entitled "War Crimes and the Gaza War." The editorial accepted uncritically the UN's report.

Evidence of the bias against Israel that the Times itself regularly displays appears in the first paragraph of the editorial. The editorial states that the report "found 'serious violations of international humanitarian law' that 'may amount to war crimes' by both Israel and the Palestinian militants during a 50-day war that killed 2,251 Palestinians, including 1,462 civilians, and destroyed 18,000 homes in the Gaza Strip."

As usual, the Times names Israel first in the sentence about war crimes. Also and again typically, the Times does not name Hamas. Rather, it refers to "Palestinian militants." Not "Hamas." Not "terrorists." Rather, "militants," as though they are some kind of freedom fighters.

Moreover, the Times accepts uncritically the claim that 1,462 of those who died in Gaza were civilians, ignoring the published report of the High Level International Military Group that put the number at about 1,000 and blamed Hamas for those deaths. Indeed, the Times has never reported on the work of the High Level International Military Group, despite its evident newsworthiness.

I have long despaired of even-handed treatment of Israel by the New York Times. But even I was astonished then to read this concluding paragraph in the editorial:

It is unrealistic to expect Hamas, which the United States and other countries consider a terrorist group, to comply with international law or police itself. But Israel has a duty, and should have the desire, to adjust its military policies to avoid civilian casualties and hold those who failed to do so accountable.

The New York Times thus explicitly has a double standard. It says that there is no point in condemning Hamas, because of course it will go on committing terrorist acts. After all, it's a terrorist group. That's what they do. And so we should not expect Hamas to comply with international law nor to police itself.

Well, I disagree with The New York Times. Moderates throughout the world are engaged in a long struggle with Jihadist terrorists, including Hamas. Of course we should condemn Hamas. Of course we should insist that Hamas must comply with international law. Of course we should insist that Hamas police itself.

And we who care about Israel and the truth must continue to speak up for Israel, to defend Israel, and to insist that the world distinguish between heroes and villains.

For almost two thousand years we Jews have recited twice each year, at the end of each Pesach seder and in the concluding service on Yom Kippur, "Next Year in Jerusalem." Sixty-seven years ago a prior generation made the hoped-for miracle of Israel a reality. It now falls to our generation to be tireless in defense of our beloved homeland, defeating her enemies on the battlefield and in the public relations wars that threaten her on all sides. May we remain informed and vigilant and speak out whenever Israel suffers unjust criticism, telling her story truly whenever others spread lies.