Strikes on houses in Gaza used for military purposes - Legal aspects

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Throughout the initial stages of Operation "Protective Edge" - initiated in order to restore security to Israel's civilian population under constant rocket and mortar fire from the Gaza Strip - the IDF struck a number of houses throughout the Gaza Strip belonging to Hamas operatives used for military purposes.

Hamas conducts its military activities deep within residential areas in the Gaza Strip. By doing so, Hamas exploits the IDF's desire and efforts to avoid harm to the Palestinian civilian population. In many cases, Hamas uses its commanders' own homes, where their families and other civilians may be residing, for military purposes. These houses may be used for activities such as weapons storage, command and control centers and communications. The cynical use of such homes can be seen in the following video, where a secondary explosion can be identified as the result of the detonation of weapons stored under the building.

When such houses are used for military purposes, they may become legitimate military targets under international law. The IDF only aims its attacks against legitimate military targets as defined under the relevant rules of international law. In order to accurately determine military targets, the IDF employs advanced methods, including multiple levels of intelligence, the provision of legal advice and extensive prior training provided to operational commanders.

Even where a house is considered a lawful military target, the IDF takes great efforts to minimize any potential harm to the surrounding civilian population. It does so by using tools that may be available at the time, such as real time visual coverage in order to assess the civilian presence at the time of the attack, by carefully choosing weaponry and ammunition which will help to minimize any harm caused and by providing advance warnings in certain instances. Many of the IDF's efforts in this regard go over and above its legal obligations and the accepted practice of other militaries conducting hostilities in urban areas. Unfortunately, many of the IDF's attempts to provide advance warning are exploited by Hamas, who uses civilians as human shields in order to deter attacks.

Further, where a commander determines that an attack is expected to cause collateral damage which would be excessive in relation to the military advantage anticipated, the attack will not be carried out.

https://mfa.gov.il/MFA/AboutIsrael/State/Law/Pages/Strikes-on-houses-in-Gaza-used-for-military-purposes---Legal-aspects.aspx
Nevertheless, regrettably, the IDF cannot guarantee that no civilian harm at all will be caused during its operations. When terrorist organizations such as Hamas deliberately use civilian homes for terrorist purposes, it is unavoidable that some civilians will be harmed when the IDF acts against these targets. Unfortunately, Hamas exploits such instances to claim that the IDF deliberately seeks to harm the civilian population in the Gaza Strip - but fails to acknowledge that it has intentionally put these citizens in grave danger by masking their terrorist activities behind a civilian veil.

The IDF will continue to conduct its operations in full accordance with international law - including by only attacking legitimate military targets, and will continue its efforts to minimize the harm to the civilian population. In contrast, Hamas deliberately and constantly fires indiscriminately towards Israel's civilian population, and celebrates when Israel's civilians are harmed. These actions constitute the most heinous war crimes. The IDF will continue to defend its citizens from such terrorist activity.

**Targeting civilians - a crime against humanity**

Palestinian Envoy to the UN Human Rights Council (UNHRC) Ibrahim Khreisheh was interviewed last week (July 9) on Palestinian Authority TV (interview translated into English by MEMRI, The Middle East Media Research Institute).

He said: "The missiles that are now being launched against Israel, each and every missile constitutes a crime against humanity, whether it hits or missed, because it is directed at civilian targets...Targeting civilians, be it one civilian or a thousand, is considered a crime against humanity."

Relating to Israel's mode of operation in Gaza during Operation Protective Edge he stated: "Please note that many of our people in Gaza appeared in TV and said that the Israeli army warned them to evacuate their homes before bombardment. In such a case, if someone is killed, the law considers it a mistake rather than intentional killing, because (the Israelis) followed the legal procedures."