


Adam Oler on “ Hamas’ Lawfare Disaster”

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Today’s post by **Lawfire**[®] contributor **Adam Oler** could not be more timely as it addresses the **order** issued last Friday by the **International Court of Justice** (ICJ) regarding allegations against Israel regarding the war in Gaza.

He examines the ruling in the context of Hamas’ lawfare strategy which it is cruelly trying to implement at the expense of the Palestinian people, and finds that the ICJ decision is actually a ‘lawfare’ disaster for the terrorist organization.

Hamas’ Lawfare Disaster **by Adam Oler, JD***

Friday’s Order by the International Court of Justice (ICJ) addressing allegations that Israel is in breach of the Genocide Convention should be viewed as a significant victory for Jerusalem.

While the ICJ denied Israel’s request to have the case thrown out, the court pointedly did not include South Africa’s demand that Israel suspend its operations in Gaza in *any* of the provisional measures it ordered.

While interpretations of the ruling vary and are often self-serving, last week’s result should be seen as a major setback to Hamas’ lawfare strategy. In the end, Israel emerged in a much better position.

Hamas’ Strategic Logic

Hamas’ political aim is an Islamist Palestinian state encompassing all the territory between the Jordan River and the Mediterranean Sea. To achieve this, Hamas has at least three identifiable sub-objectives.

These include outlasting, if not eliminating, the global support upon which Israel depends; shaping global perceptions of Israel to achieve that objective; and forcing Israel to act in a way that brings about objectives one and two. Along the way, Hamas also has a negative objective, it must avoid its own destruction. It thus holds scores of hostages as a shields against annihilation.

Hamas will never defeat the Israeli Defense Forces (IDF) militarily. It instead relies upon the other instruments of power – diplomatic, economic, and especially informational – to achieve its objectives. While Hamas’ use of violence is quintessential, it primarily uses force to enhance its ability to wield Information, especially through lawfare.

That is, it hopes to achieve in the courtroom war aims it cannot achieve on the battlefield. A ruling by the ICJ demanding a ceasefire would provide what Hamas wants and needs most, a termination of the conflict while it still controls parts of Gaza.

Much like Hezbollah in Lebanon eighteen years ago, Hamas would emerge from the war with heightened legitimacy in the eyes of the so-called resistance. For Hamas, this is a war of annihilation, for now at least, survival means victory.

Bad Assumptions, Broken Strategy.

Assumptions are the sea upon which the ship of state sails. This is no less true for terrorists than empires. Hamas' lawfare strategy encompassed four lines of effort, each premised on a key assumption.

It correctly believed it could build a massive, lethal, and offensive military infrastructure under a human shield of two million civilians. Then, it rightly assumed it could compel Israel to attack that military infrastructure, knowing it would result in thousands of civilian casualties. Next, Hamas thought it could seize on global outrage caused by images of those civilian deaths, leading to Israel's political isolation.

And finally—and most importantly—Hamas assumed it could count on the International Court of Justice to brand Israel genocidal, compelling it to either accept a ceasefire, or face near-total global isolation.

Far from *ad hoc*, the lawfare strategy Hamas pursued was an outgrowth of lessons it learned during its 2014 conflict with the IDF. In what was truly the first social media war, Hamas leveraged images of the conflict to turn global opinion against Israel. Hamas fired rockets from behind schools, hospitals, and other civilian structures, knowing that Israel would respond by striking those targets.

When the images produced from those strikes hit the web, the nuances of international humanitarian law were quickly lost. That the war crime was being committed when Hamas illegally placed weapons in protected areas mattered little.

What counted was the shock brought on by otherwise legal Israeli fires which led to civilian deaths and destruction. Immune from its own accountability, Hamas' skillful and effective use of twitter dramatically curtailed Israel's political willingness to strike certain targets, especially as hashtags such as #ICC4Israel spread. Although Israel eventually got its information battleplan together, Hamas emerged from the war intact, more legitimate, and committed to further conflict.

Although sidelined for lack of standing, Hamas watched how, in the aftermath of the 2014 war, the International Criminal Court granted Palestine state party status, and foreshadowed favorable rulings against Israel. In other words, the courts were open for Hamas' allies to

wage the information war at the heart of its overall strategy.

Thus, what is clear now, and has been since October 7, is that the main lesson Hamas drew from 2014 is that its strategy that summer worked. It thus assumed it would work again, when pursued on a much larger scale.

Concluding thoughts

Friday's ruling proved that assumption disastrously wrong. Instead of condemnation from the ICJ and a demand for a ceasefire, the Court instead demanded Hamas immediately release the 7 October hostages. More importantly—and this is where U.S. interests were well served, too—the Court tacitly recognized Israel's right to self-defense.

For all practical purposes, Israel skillfully used the ICJ forum to justify its actions under Article 51 of the Charter, effectively outmaneuvering the South Africans and, by extension, the Hamas terror regime.

In so doing, Israel bought itself time, legitimacy, and the Court's *de facto* imprimatur for going into the Gaza strip. In looking at Friday's ruling, Hamas' attempt to achieve in the court what it couldn't on the battlefield backfired spectacularly.

About the Author:



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