

Israeli commander: 'We rewrote the rules of war for Gaza'

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Civilians 'put at greater risk to save military lives' in winter attack - revelations that will pile pressure on Netanyahu to set up full inquiry.



White phosphorus over Gaza

A high-ranking officer has acknowledged for the first time that the Israeli army went beyond its previous rules of engagement on the protection of civilian lives in order to minimise military casualties during last year's Gaza war, The Independent can reveal.

The officer, who served as a commander during Operation Cast Lead, made it clear that he did not regard the longstanding principle of military conduct known as "means and intentions" – whereby a targeted suspect must have a weapon and show signs of intending to use it before being fired upon – as being applicable before calling in fire from drones and helicopters in Gaza last winter. A more junior officer who served at a brigade headquarters during the operation described the new policy – devised in part to avoid the heavy military casualties of the 2006 Lebanon war – as one of "literally zero risk to the soldiers".

The officers' revelations will pile more pressure on Israeli Prime Minister Benjamin Netanyahu to set up an independent inquiry into the war, as demanded in the UN-commissioned Goldstone Report, which harshly criticised the conduct of both Israel and Hamas. One of Israel's most prominent human rights lawyers, Michael Sfard, said last night that the senior commander's acknowledgement – if accurate – was "a smoking gun".

Until now, the testimony has been kept out of the public domain. The senior commander told a journalist compiling a lengthy report for Yediot Ahronot, Israel's biggest daily newspaper, about the rules of engagement in the three-week military offensive in Gaza. But although the article was completed and ready for publication five months ago, it has still not appeared. The senior commander told Yediot: "Means and intentions is a definition that suits an arrest operation in the Judaea and Samaria [West Bank] area... We need to be very careful because the IDF [Israel Defence Forces] was already burnt in the second Lebanon war from the wrong terminology. The concept of means and intentions is taken from different circumstances. Here [in Cast Lead] we were not talking about another regular counter-terrorist operation. There is a clear difference."

His remarks reinforce testimonies from soldiers who served in the Gaza operation, made to the

veterans' group Breaking the Silence and reported exclusively by this newspaper last July. They also appear to cut across the military doctrine – enunciated most recently in public by one of the authors of the IDF's own code of ethics – that it is the duty of soldiers to run risks to themselves in order to preserve civilian lives.

Explaining what he saw as the dilemma for forces operating in areas that were supposedly cleared of civilians, the senior commander said: "Whoever is left in the neighbourhood and wants to action an IED [improvised explosive device] against the soldiers doesn't have to walk with a Kalashnikov or a weapon. A person like that can walk around like any other civilian; he sees the IDF forces, calls someone who would operate the terrible death explosive and five of our soldiers explode in the air. We could not wait until this IED is activated against us."

Another soldier who worked in one of the brigade's war-room headquarters told The Independent that conduct in Gaza – particularly by aerial forces and in areas where civilians had been urged to leave by leaflets – had "taken the targeted killing idea and turned it on its head". Instead of using intelligence to identify a terrorist, he said, "here you do the opposite: first you take him down, then you look into it."

The Yediot newspaper also spoke to a series of soldiers who had served in Operation Cast Lead in sensitive positions. While the soldiers rejected the main finding of the Goldstone Report – that the Israeli military had deliberately "targeted" the civilian population – most asserted that the rules were flexible enough to allow a policy under which, in the words of one soldier "any movement must entail gunfire. No one's supposed to be there." He added that at a meeting with his brigade commander and others it was made clear that "if you see any signs of movement at all you shoot. This is essentially the rules of engagement."

The other soldier in the war-room explained: "This doesn't mean that you need to disrespect the lives of Palestinians but our first priority is the lives of our soldiers. That's not something you're going to compromise on. In all my years in the military, I never heard that."

He added that the majority of casualties were caused in his brigade area by aerial firing, including from unmanned drones. "Most of the guys taken down were taken down by order of headquarters. The number of enemy killed by HQ-operated remote ... compared to enemy killed by soldiers on the ground had absolutely inverted," he said.

Rules of engagement issued to soldiers serving in the West Bank as recently as July 2006 make it clear that shooting towards even an armed person will take place only if there is intelligence that he intends to act against Israeli forces or if he poses an immediate threat to soldiers or others.

In a recent article in New Republic, Moshe Halbertal, a philosophy professor at Hebrew and New York Universities, who was involved in drawing up the IDF's ethical code in 2000 and who is critical of the Goldstone Report, said that efforts to spare civilian life "must include the expectation that soldiers assume some risk to their own lives in order to avoid causing the deaths of civilians". While the choices for commanders were often extremely difficult and while he did not think the expectation was demanded by international law, "it is demanded in Israel's military code and this has always been its tradition".

The Israeli military declined to comment on the latest revelations, and directed all enquiries to already-published material, including a July 2009 foreign ministry document The Operation in Gaza: Factual and Legal Aspects.

That document, which repeats that Israel acted in conformity with international law despite the "acute dilemmas" posed by Hamas's operations within civilian areas, sets out the principles of Operation Cast Lead as follows: "Only military targets shall be attacked; Any attack against civilian objectives shall be prohibited. A 'civilian objective' is any objective which is not a military target." It adds: "In case of doubt, the forces are obliged to regard an object as civilian."

Yedhiot has not commented on why its article has not been published.

Israel in Gaza: The soldier's tale

This experienced soldier, who cannot be named, served in the war room of a brigade during Operation Cast Lead. Here, he recalls an incident he witnessed during last winter's three-week offensive:

"Two [Palestinian] guys are walking down the street. They pass a mosque and you see a gathering of women and children.

"You saw them exiting the house and [they] are not walking together but one behind the other. So you begin to fantasise they are actually ducking close to the wall.

"One [man] began to run at some point, must have heard the chopper. The GSS [secret service] argued that the mere fact that he heard it implicated him, because a normal civilian would not have realised that he was now being hunted.

"Finally he was shot. He was not shot next to the mosque. It's obvious that shots are not taken at a gathering."

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