

In this fact sheet, we list ways in which Hamas regularly violates the most fundamental principle of IHL, the principle of distinction between legitimate military targets and protected civilians, and highlight examples of measures Israel takes to comply with IHL.

The information in this fact sheet can be used to educate and counter ill-informed analyses, which often misuse IHL terms such as “distinction” and “proportionality” in order to justify criticism of Israel and the Israeli Defense Forces (IDF).

What is International Humanitarian Law (IHL)?

IHL, also known as the law of war or the law of armed conflict (sometimes abbreviated LOAC), sets the rules that govern how nations must conduct themselves in war. These rules are designed to protect civilians and restrict the means and methods of warfare.

Where does IHL Come From?

Like any international law, IHL comes either from a treaty or from customary international law—near-universal state practice carried out due to a perceived legal obligation.¹ Many of the fundamental rules of IHL are codified in the Four Geneva Conventions of 1949. These Conventions were drafted in response to international outrage at the brutality of World War Two and have been ratified by every country in the world.

What types of conflicts does IHL regulate?

IHL addresses two primary types of conflicts: *international armed conflicts* (“IACs”) and *non-international armed conflicts* (“NIACs”). The Geneva Conventions primarily apply to IACs, conflicts between two or more States. Common Article 3 of the Geneva Conventions also applies to NIACs, protecting persons not taking part in a

NIAC—like civilians and captured fighters—from murder, torture, and other violations. Under customary international law, many of the same principles which govern IACs have been found to apply to NIACs (but not all).

Whose Conduct Does IHL Govern?

IHL generally applies equally to all warring parties and their members (known as belligerents), regardless of who started a particular conflict.² States are bound by treaties they have signed and ratified³ and by rules of customary international law, unless they are “persistent objectors” to such a rule.⁴ States’ IHL obligations may vary slightly as a result, based on which treaties they choose to sign, but key rules like those in the Geneva Conventions and principles like those outlined below are generally applicable. Non-state groups are bound by customary international law and the law of the State in which they are operating, including treaties which have become part of that State’s domestic law. That such groups do not have the capacity to sign treaties does not prevent them from being bound by international law.⁵

What are the Key Principles of IHL?

IHL rests on several key principles, codified in the Geneva Conventions, which help warring parties determine what they can and cannot legally do during a war.

Widely accepted IHL principles include:

- “distinction,”
- “necessity,”
- “proportionality,” and
- “humanity.”



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The principle of distinction requires warring parties to “at all times distinguish between civilians and combatants. Attacks may only be directed against combatants. Attacks must not be directed against civilians.”⁶

This principle requires that attackers distinguish between military and civilian objectives when selecting targets. A military objective is anything that, by its nature, location, purpose, or use, contributes to military action and the destruction or neutralization of which, in the circumstances at the time, offers a military advantage.⁷ “Dual use” items, such as railroad tracks used by both civilians and the military, are considered military objectives.⁸ For example, targeting an adversary’s factory that produces both weapons and civilian goods complies with the principle of distinction, while targeting an adversary’s nursing home does not.

Terrorist groups commonly target civilians.⁹ Warring parties may also violate the principle of distinction by carrying out “indiscriminate attacks”, including by using weapons that can only be aimed at large areas rather than specific targets in urban areas full of civilians.¹⁰

The principle of distinction also imposes obligations on a warring party to separate its own military forces and objects from nearby civilians and civilian objects as much as possible. As a result, parties to a conflict must ensure fighters and civilians can be visibly distinguished from each other; “physically separate, as feasible, their military objectives from the civilian population and other protected persons and objects”; and not use civilians or other “protected persons or objects to shield military objectives.”¹¹ Defenders would violate their distinction obligations by storing weapons in the basement of a civilian building or using it as a meeting place for plainclothes militants. Such a building would then

become a lawful military target.¹² Lawful targets may be directly attacked, subject to the rules below.

Some facilities—like schools, hospitals, and religious facilities—have particular legal protections due to their humanitarian functions. However, those protections do not permit them to be used for armed acts harmful to the enemy. In some cases, even if they have been co-opted for such use, their legal protections may require additional warnings be given before they are attacked (unless there is an urgent need to neutralize a military force located therein). However, no facility’s legal protections permit an armed force to militarize a facility and still avoid being targeted.¹³

The principle of necessity permits armed forces to take “measures which are actually necessary to accomplish a legitimate military purpose and are not otherwise prohibited by international humanitarian law”.¹⁴ Necessity also justifies collateral damage which occurs as a result of actions which are necessary, as long as those actions do not violate the proportionality principle.¹⁵ Necessity is evaluated based on the information available to a decisionmaker at the time a decision was made who must make a good-faith evaluation of that information.¹⁶

The principle of proportionality bans any “attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.”¹⁷ The principle of proportionality does not prohibit attacks resulting in the incidental loss of civilian life or injury to civilians or civilian objects, often referred to as “collateral damage.”¹⁸ Such collateral damage violates the principle of proportionality only if it is “excessive (in contrast to ‘extensive’) in relation to the concrete and direct military advantage anticipated.”¹⁹



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Proportionality refers only to the relationship between the military advantage gained in a strike and the expected collateral harm to non-military targets it causes.²⁰

Proportionality does not limit a military unit to killing only the same number of enemy soldiers that they lose of their own, or to firing a similar number of bullets or using the same kind of weapon.²¹

For instance, while all civilian casualties are tragic, civilian collateral damage does not qualify as disproportionate as long as the harm occurred in pursuit of a relatively equal or greater military objective. For example, destroying a housing complex while residents are in their homes to eliminate a single enemy combatant armed with a pistol is very likely disproportionate. But targeting an enemy military base concealed within it which housed hundreds of combatants shooting rocket-propelled grenades would very likely be proportionate, even if the only weapons available in the circumstances might destroy the entire complex.

The principle of proportionality also requires attackers to take precautions to minimize collateral damage. For instance, the International Commission of the Red Cross and Red Crescent and U.S. Department Of Defense agree that, in the conduct of military operations, care must be taken to spare the civilian population, civilians and civilian objects.²² Commanders planning an attack should thus do everything feasible under the circumstances to verify that the target of the attack is a military objective.²³ Once the target is verified, a commander should choose whatever means and methods of attack will best minimize collateral civilian damage.²⁴ When the situation allows, the attacking party should warn civilians of the pending attack ahead of time.²⁵

Proportionality is assessed from "the perspective of

a military commander based on the information even if the only weapons available in the circumstances might destroy the entire complex available to him/her at the time of the attack."²⁶

Legal decisions on proportionality and definitions of it in treaties are both rare, because a proportionality analysis requires difficult strategic calculations in the context of highly situation-specific information.²⁷

The principle of humanity forbids the infliction of unnecessary suffering.²⁸ For example, soldiers may need to blow up a door to get into a building where an enemy combatant is located, and may need to use violence to subdue the enemy combatant. However, beating the enemy combatant after he has been captured (and consequently placed "hors de combat," or out of action) would violate the principle.

What is Asymmetric Warfare?

Coined in 1975, the term "asymmetric warfare" has been defined in a variety of ways. One broad definition uses the term "asymmetry" to mean "acting, organizing, and thinking differently than opponents in order to maximize one's own advantages, exploit an opponent's weaknesses, attain the initiative, or obtain greater freedom of action."²⁹ A common type of asymmetric warfare is armed conflict in which one side attempts to compensate for its military or economic deficiencies by resorting to means of warfare prohibited by IHL.³⁰ Nonstate groups that engage in asymmetric warfare, often "do not comply with international humanitarian law...[while] simultaneously [using] that law to undermine the motivation and legitimacy of their democratic state foes."³¹ Some call this use of the law to obtain military advantage "lawfare."

How does Asymmetric Warfare Impact IHL?

When one party rejects IHL principles, its adversary faces profound challenges in maintaining



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compliance with IHL. For instance, in asymmetric warfare one party often attempts to compensate for its relative disadvantage by avoiding open confrontation with the enemy. Instead, it tries to prolong hostilities through an undercover war of attrition in which it strikes the enemy and then merges back into the civilian population.³² The party engaging in these tactics, often referred to as guerilla warfare, will commonly attack anywhere it can—including violating IHL by targeting civilian objects like a bus, restaurant, school, hospital, or shopping center.³³

In short, asymmetric conflicts do not feature two organized, uniform-wearing state militaries clashing in open areas. They require a military to operate in an urban area where fighters and civilians look the same and it is particularly hard for military forces to distinguish between military and non-military persons and objects.³⁴ The party employing guerilla tactics generally uses tactics which accentuate this challenge: it rejects the traditional characteristics of an army, such as uniforms or facilities that function solely as military bases.³⁵ Instead, guerillas often hide by wearing civilian clothes and stationing militants, munitions, and bases within civilian areas. This violates the principle of distinction as well as the specific prohibition on using human shields.³⁶ The more traditional military must therefore figure out how to distinguish members of organized armed groups who do not wear uniforms and civilians directly participating in the conflict, who may be directly targeted, from civilians who are not participating and who remain legally immune from targeted attacks. This makes it much harder to apply the principles of distinction, proportionality, and even necessity.³⁷

Greater responsibility is also placed on the lower ranks of a conventional military in an asymmetric urban conflict. For example, privates on patrol must determine at any given moment whether a person

watching them through the window of a house is a scouting combatant or a frightened civilian. It is incumbent on these low-level ground troops to make continual and immediate assessments as to whether engaging such a person is a military necessity.³⁸ A wrong evaluation may lead to casualties in the soldier's unit, or among civilians on either side.

Aware of the importance the international community and media attaches to the principle of proportionality and any civilian losses in armed conflict, the side employing asymmetric tactics will often seek to provoke its opponent into an attack which can be portrayed as disproportionate.³⁹

This creates perverse incentives and encourages the non-traditional force to use human shields.⁴⁰ For example, if the only weapon available to target a sniper atop a populated civilian apartment building would blow up the entire structure, the opposing side will likely refrain, since destroying the structure would cause a disproportionate loss of civilian life in relation to the military advantage achieved. However, if the target atop the apartment building is an operational headquarters, then the military advantage gained from its elimination may justify the loss of civilian life. Even though destruction of the building and the operational headquarters on top of it may comply with the principle of proportionality, the attacking side in this scenario may nevertheless be criticized for the resulting loss of civilian life. The side using asymmetric tactics will then seize the opportunity to exploit the loss for publicity purposes.

How does Hamas Violate IHL Principles? *Violations of the Principle of Distinction*

Hamas violates its obligations under the principle of distinction both as an attacker and as a defender. As an attacker, Hamas often directs attacks at civilians or civilian property. For example, multiple panels of retired military officers and IHL experts determined that during its 2021 conflict with the IDF, Hamas



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“seriously violated LOAC... by deliberately attacking Israeli civilian population areas and by launching indiscriminate attacks.”⁴¹

This was nothing new: Hamas for years has fired indiscriminate rockets at Israeli civilian communities living near the Gaza border.⁴² Such attacks are solely meant to terrorize and kill civilians who enjoy absolute protection from being targeted under IHL. Other projectiles Hamas flies over the Gaza border—like incendiary balloons and kites (some emblazoned with swastikas⁴³) which torch Israeli nature reserves and farmland—equally fail to distinguish between military and civilian targets.⁴⁴ Even groups which have criticized IDF tactics have found Hamas’s indiscriminate fire constitutes a war crime.⁴⁵

As a defender, Hamas violates the principle of distinction by avoiding uniforms and thus failing to distinguish its fighters from civilians; locating operational military bases in civilian areas; using human shields; and weaponizing items and locations which should be protected under IHL. For example, during the 2021 Gaza conflict, “Hamas significantly increased the danger to Gazan civilians... by locating rocket launchers, other weapons, command and control facilities, and munitions at sensitive sites and in residential areas. This was often done with no apparent military necessity—in clear violation of LOAC.”⁴⁶ When Hamas violates the principle of distinction in this manner, those particular sites become military objectives subject to attack.⁴⁷ This is also true when Hamas misuses a facility with particular legal protections, though in some instances Israel may be legally obligated to issue a warning before attacking the facility.⁴⁸ As discussed in more detail below, Israeli policy meets or exceeds IHL requirements in providing warnings.

Violations of the Principles of Necessity and Proportionality

Because Hamas does not aim its strikes at military

targets, these strikes also violate the principle of necessity and the principle of proportionality. A unit firing indiscriminately is not engaged in a strike which is necessary to win a conflict and otherwise consistent with IHL, so it is not complying with the principle of necessity. Similarly, it cannot be demonstrated that there is a concrete military advantage to be gained from these indiscriminate strikes which is not outweighed by the clearly solely meant to terrorize and kill civilians who enjoy excessive civilian harm, so it is not complying with the principle of proportionality.

The Prohibition of Terrorism

The United Nations Counter-Terrorism Executive Directorate recently noted that “[t]he prohibition of terrorist offences has been clearly set forth in relevant Security Council resolutions and in numerous international law instruments.”⁴⁹ The Security Council resolutions to which CTED referred require all countries to collaborate in preventing terrorism and bringing terrorists to justice.⁵⁰

While CTED was unable to define terrorism, the Special Tribunal for Lebanon has held it entails two factors: “(i) criminal act and (ii) intention to intimidate a population or compel an authority [to do or refrain from doing something]”.⁵¹ Hamas has been listed as a terrorist group by the U.S., U.K., European Union, and other governments. The U.K., for instance, noted in a recent decision that Hamas “commits and participates in terrorism”, explaining it “has used indiscriminate rocket or mortar attacks”, “fired indiscriminately into Israel”, and is “responsible for running training camps” where “groups, including minors, [were trained] to fight.”⁵² Both indiscriminate attacks⁵³ and using minors as fighters violate IHL.⁵⁴

How does the IDF Comply With IHL? Principle of Necessity

The IDF, which is often faced with asymmetrical

warfare tactics, takes pains to instill an understanding of the importance of the principle of necessity into all levels of its forces. In 1992, the IDF drafted a Code of Ethics called “The IDF Spirit,” which incorporates the IHL principle of necessity. Under the header “Purity of Arms,” the Code states that IDF servicemen and women will use force only “to the necessary extent” and exercise restraint to prevent “unnecessary harm to human life and limb, dignity and property... without inflicting unnecessary injury.”⁵⁵ The Jewish Virtual Library observes that “during basic training, every IDF soldier studies and analyses the Code of Ethics with his or her commanders, who typically hang framed copies of the Code in their offices.”⁵⁶ Such emphasis on the Code from the beginning of an IDF soldier’s training embeds the principles of necessity into the instincts of each soldier to ensure compliance during active conflict.

During conflict, the IDF requires that military lawyers review all targeting decisions to ensure all strikes comply with IHL. The IDF also goes beyond the legal review provided even in other armies that take great pains to comply with IHL—like the U.S. military—by (i) empowering military lawyers to make decisions on operational law issues, including what targets may be fired upon, which bind the IDF, and (ii) placing military lawyers outside the operational chain of command, so they are not subordinate to the commanders they are advising.⁵⁷ Unlike in many countries, the Israeli Supreme Court can also review operational decisions.⁵⁸

Principle of Distinction

The IDF adopts a restrictive approach to distinguishing military objectives from civilians, which roughly parallels the U.S. military’s approach to identifying civilians who are “directly participating in hostilities.”⁵⁹ It protects even civilians who are carrying out roles which encourage or facilitate

violence.⁶⁰ For instance, IDF attorneys designate “individuals who generally incite violence, recruit for enemy organizations, or provide broad financing for enemy operations” as civilians and not as military objectives. Members of antagonistic organizations, such as Hamas, are also designated civilians as long as they are not members of their organization’s military wing. But “individuals preparing rockets for launch, launching rockets, retreating from the location of a rocket launch... recruiting a suicide bomber to attack a particular target...[or] providing the supplies or financing for that specific operation,” are treated as military targets.⁶¹ Although Israel is often accused of intentionally targeting civilians or infrastructure, the IDF’s restrictive approach to distinguishing military objectives actually provides protection for the vast majority of Gazans.

Prior to airstrikes, the IDF also takes significant precautions to give civilians notice to evacuate an area and avoid harm. For instance, it drops Arabic language leaflets and sends mobile phone alerts to civilians in strike zones, alerting them to the impending assault and urging them to leave the area. If civilians do not evacuate, the IDF uses a tactic known as “knocking on the roof,” in which it fires an inert projectile at the strike zone before the attack to further incentivize evacuations.⁶² As a result, while the IDF struck 20 high-rise buildings during the 2021 Gaza conflict, reports indicate zero civilians were killed in these strikes.⁶³ Renowned IHL scholars have roundly rejected preposterous criticism of the IDF’s provision of warnings.⁶⁴

In addition, the IDF carefully customizes each strike with munitions designed to precisely target specific military objectives and reduce collateral



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damage.⁶⁵ For example, during the 2021 conflict, only the buildings the IDF targeted were damaged—not buildings nearby.⁶⁶ Similarly, during Operation Protective Edge in 2014, the IDF used weapons specifically designed with “such characteristics as penetration capability, low blast, no blast (inert) or low fragmentation.”⁶⁷ The IDF also requires multiple sources to verify a target, and when striking employs “tactics such as angle of attack, timing of the strike to occur when civilians are least likely to be in the area, or uses weapons set to explode after burying into the target to minimize the collateral effects of the blast.”⁶⁸

Principle of Proportionality

One example of the IDF’s adherence to the principle of proportionality is a situation it frequently faces during operations in Gaza, in which Hamas uses civilians as human shields. This makes it harder to make pre-strike proportionality assessments. The IDF characterizes involuntary human shields as civilians in its proportionality calculations, in keeping with the majority view of the international community.⁶⁹ When the IDF soldier is unable to determine whether a person is functioning as a human shield voluntarily or involuntarily, he or she presumes the shielding is involuntary.⁷⁰ While the IDF treats voluntary human shields as participating in hostilities, like the US does, experts who have closely studied the issue describe its treatment of human shields in practice as “much more restrictive than allowed by the law.”⁷¹

Similarly, as noted above, as a matter of policy Israel warns Gaza’s civilian population of pending attacks and directs civilians to specific routes that will take them to areas that will not be struck.⁷² These warnings allow some enemy fighters to escape, but

the IDF accepts such risks as a matter of policy.⁷³ In response to warnings, Hamas actively encourages civilians not to evacuate, but to remain in place as human shields. The IDF treats civilians complying with Hamas’ instructions as civilians in making its proportionality analysis.⁷⁴ Further, Israel frequently aborts military operations against verified military targets when it determines civilians remain in the area—even after it has warned such civilians and encouraged them to evacuate. IHL experts have described seeing the IDF implement this policy in practice, for instance watching IDF commanders call off strikes during the 2021 conflict because civilians had remained in place after receiving warnings.⁷⁵

Misguided criticism of the IDF on proportionality grounds often relies on a misunderstanding of the term. As noted above, proportionality does not require equal harm to lawful military targets on each side. It simply requires that damage to civilians not be excessive in relation to the military advantage anticipated from an action.

Conclusion

The terms used in IHL, like other legal terms, have specific meanings. Those who use IHL terminology without understanding the applicable law’s substance often misuse the language, either inadvertently or in service of a political agenda. Such false IHL assumptions and accusations must be countered with clear definitions and examples. This fact sheet can serve as a starting point in reclaiming the actual definitions of IHL principles. The IDF, Hamas, and other forces that participate in armed conflicts should be evaluated based on these same standards. Viewed in that light, well-informed commentators have lauded the remarkable efforts the IDF makes to ensure it conducts asymmetric operations in compliance with IHL.



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The Louis D. Brandeis Center, Inc., (LDB) is an independent, nonprofit organization established to advance the civil and human rights of the Jewish people and promote justice for all. The Brandeis Center conducts research, education, and advocacy to combat the resurgence of anti-Semitism on college and university campuses. It is not affiliated with the Massachusetts University, the Kentucky law school, or any of the other institutions that share the name and honor the memory of the late U.S. Supreme Court justice.

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2. E.g. International Commission of the Red Cross and Red Crescent (“ICRC”), Customary International Law, <https://www.icrc.org/en/war-and-law/treaties-customary-law/customary-law>.
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11. DOD Manual, §2.5.3. See ICRC CIL Database, Rule 97; ICRC CIL Database, Rule 106 (“Combatants must distinguish themselves from the civilian population while they are engaged in an attack or in a military operation preparatory to an attack...”); 2009 Gaza Report, para.151.
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43. David Rutz, *Gazan Boasts to NPR About Driving Israelis 'Crazy' by Putting Swastikas on Firebomb Kite: 'We Want to Burn Them'* WASHINGTON FREE BEACON, May 15, 2018, <https://freebeacon.com/national-security/gazan-boasts-npr-driving-israelis-crazy-putting-swastikas-kite-want-burn-them/>.
44. E.g. Matthew Aiesi, *Incendiary Balloons: A National Security Lawyer's Witness to War Crimes*, LAWFARE, July 29, 2019, <https://www.lawfareblog.com/incendiary-balloons-national-security-lawyers-witness-war-crimes>; Alan Baker, *The Many Ways the Palestinians Violate International Law*, JEWISH NEWS SYNDICATE, June 17, 2018, <https://www.jns.org/opinion/the-many-ways-the-palestinians-violate-international-law/>.
45. Ilan Ben Zion, *Rights group says Hamas rockets at Israel a clear war crime*, ABC News, August 12, 2021, <https://abcnews.go.com/International/wireStory/rights-group-hamas-rockets-israel-clear-war-crime-79417974>.
46. JINSA Report, p.24. See HLMG Interim Assessment, paras. 86-87.
47. Michael Schmitt & John Merriam, *The Tyranny of Context: Israeli Targeting Practices in Legal Perspective*, 37 U. PA. J. INT'L L. 53, 104-105 (2015).
48. *Id.*
49. Counter-Terrorism Executive Directorate, *The interrelationship between counter-terrorism frameworks and international humanitarian law*, January 2022, p.34, https://www.un.org/securitycouncil/ctc/sites/www.un.org/securitycouncil.ctc/files/files/documents/2022/Jan/cted_ihl_ct_jan_2022.pdf.
50. E.g. S/RES/1373 (2001), <http://unscr.com/en/resolutions/1373>.
51. *Interlocutory Decision on the Applicable Law: Terrorism, Conspiracy, Homicide, Perpetration, Cumulative Charging*, STL-11-01/1, Special Tribunal for Lebanon, July 16 2011, para.89.
52. UK Home Office Policy Paper, *Proscribed Terrorist Groups and Organizations*, updated November 26, 2021, <https://www.gov.uk/government/publications/proscribed-terror-groups-or-organisations--2/proscribed-terrorist-groups-or-organisations-accessible-version>. See Alan Baker, *The Many Ways the Palestinians Violate International Law*, JEWISH NEWS SYNDICATE, June 17, 2018, <https://www.jns.org/opinion/the-many-ways-the-palestinians-violate-international-law/>.
53. See above.
54. E.g. *Prosecutor v. Lubanga*, Case No. ICC-01/04-01/06, Judgment (Trial), March 14, 2012, paras. 600-618, https://www.icc-cpi.int/CourtRecords/CR2012_03942.PDF; ICRC CIL Database, Rules 136-137.
55. Israel Defense Force, *Code of Ethics and Mission*, 2001 version, <https://www.jewishvirtuallibrary.org/ruach-tzahal-idf-code-of-ethics>.
56. *Id.*
57. Schmitt & Merriam, pp. 86-87.
58. *Id.* at 90-92.
59. *Id.* at 114.
60. Such civilians may, however, be committing crimes which subject them to arrest under Israeli and/or U.S. law. They are simply immune from military targeting.
61. Schmitt & Merriam, p.114.
62. *Id.* at 79.
63. JINSA Report, p.19.
64. Schmitt & Merriam, p.79. See Daphné Richemond-Barak, *Advance Warning and the al-Jalaa Tower*, LIEBER INSTITUTE, Year in Review, Dec. 30, 2021, <https://lieber.westpoint.edu/year-in-review-2021/>.
65. Recently, in efforts to capture terrorists while reducing collateral damage, a special IDF squad has completed successful experimentation with a new system of microdevices designed to be powerful enough to only take down metal bars, a door, or even a wall without causing collateral damage. IDF officials told the Israeli press that this "was particularly important for any possible upcoming ground operation against Hamas in Gaza: Because the terrorist group frequently operates from residential homes, schools, hospitals, and other civilian structures, using women and children as human shields, the IDF now possesses the capacity to enter these structures and surgically target the terrorists alone." Liel Liebovitz, *IDF Introduces New Microdevices Designed to Break Into Terrorist Structures Without Collateral Damages*, TABLET, Jul. 30, 2018, <https://www.tabletmag.com/scroll/267357/idf-introduces-new-micro-devices-designed-to-break-into-terrorist-structures-without-collateral-damage>.
66. JINSA Report, p.19.
67. Schmitt & Merriam, p.132.
68. *Id.*
69. *Id.* at 116-117; DOD Manual, § 5.12.4.
70. Schmitt & Merriam, p.117.
71. *Id.* at 118.
72. *Id.* at 118-119. It appears some warnings may go beyond what would be required by giving the specific time and place of an attack, for instance by giving civilians a certain time to evacuate a building which has been found to be a military target. Compare Schmitt & Merriam, pp.79-80, with DOD Manual, § 5.11.5.2.
73. JINSA Report, p.18. See Ayalon and Jenkins, p.40, cited in Corn, *Encryption, Asymmetric Warfare, and the Need for Lawful Access*, pp.350-351 ("Effective warning – for example, roof knocking – weakens the chances of a successful military mission and places soldiers at additional risk.").
74. Schmitt and Merriam, pp.118-119 ("It has been suggested that civilians who do not heed warnings should either be treated as voluntary human shields directly participating in hostilities or, the fact that they choose to remain in the target area should somehow be factored into the proportionality calculations and precautions in attack requirements. The IDF rejects these arguments.").
75. Geoffrey Corn and Richard Natonski, *New Proof that it was Hamas – not Israel – that committed war crimes last May*, NEW YORK POST, November 12, 2021, <https://nypost.com/2021/11/12/new-proof-that-it-was-hamas-not-israel-that-committed-war-crimes-last-may/>.