

# Ethical Dilemmas for Israel during Operation Cast Lead

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## **Summary: Israel's commitment to ethical operations in the theatres of war and counter-terrorism is unwavering.**

International law provides an incomplete solution to ethical dilemmas. As a result, individual countries have developed their own ethical codes. In Israel, all operations are governed by a strict code of conduct, *The Spirit of the IDF*, and any deviations from this code are investigated in order to improve combat doctrine for the future.

## **International law**

1. International law is based on a traditional war model between two armies. Existing international law fails to apply effectively to terrorist conflicts and provides insufficient response to the ethical dilemmas that arise.
2. Terrorists have developed a number of strategies to exploit these loopholes to offset their military inferiority: **against human rights law** and **against the laws of just war**. At the same time they place the value of **propaganda** above the value of human life:
  - a. **Fundamental right to life:** The fundamental ethic is the right to life. Terrorism is inherently indifferent to the value of human life. With no commitment to international law, terrorists remain free from any ethical or moral limitations.
  - b. **Rules of engagement and value of propaganda:** Terrorists attempt to delegitimize the actions of their state targets: by portraying themselves as victims, by accusing the state of unfair play, and by waging war in densely populated areas and causing panic among the populace with the ultimate goal of obtaining media coverage.

## **Hamas' strategy: indifference to life and livelihood**

3. Hamas has spent 2 years developing a terrorist infrastructure embedded within its civilian infrastructure.
4. **Indifference to the right to life:**
  - a. Over a third of the 122 houses in the neighborhood of Al-Attrra were booby-trapped before or during Cast Lead.
  - b. Hamas brought residents of Gaza out to the streets so that militia could hide among them, wearing civilian clothing, using the residents as human shields during Cast Lead. (*Alan Dershowitz defines this behavior as the "Hamas' dead baby strategy".*)
5. Despite the frequency of combat in densely populated areas and the use of the local residents as human shields, IDF assessments show that the bulk of the casualties were armed militants (709 armed militants, 295 civilians and 162 whose degree of involvement is still under investigation).
6. For the IDF, **any collateral damage to civilians is investigated** in order to learn from our mistakes and improve our combat doctrine for the future. For Hamas, collateral damage to both Israeli and Palestinian civilians is a means to accomplish their goal.
7. **Continuous use of terror tactics:**
  - a. When crossing points were opened to transfer humanitarian aid, Hamas deliberately bombed them
  - b. When supplies were transferred, they were looted and did not reach the local residents
  - c. When Israel ceased fire to create daily 'aid transfer windows', Hamas continued to fire, endangering civilians and aid workers
  - d. When Israel offered to transfer wounded civilians to Israeli hospitals, Hamas refused most transfers

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## Israel's unwavering commitment to ethics

8. Despite 61 years' experience in combating terrorism, the IDF continues to face complex challenges which highlight complex ethical dilemmas.
9. IDF legal experts accompanied every aspect of the operation, from planning to implementation. This reflects the IDF's recognition of the importance of obeying international laws as an inherent aspect of the decision-making process.
10. **The Spirit of the IDF:**
  - a. To confront ethical dilemmas arising during counter-terrorist operations, the IDF developed a moral code, *The Spirit of the IDF*.
  - b. The code is composed of Israeli values, democratic Western values and commitment to international laws. **It is deeply integrated throughout each IDF soldier's education.**
  - c. *Spirit* places a high standard for personal judgment when targeting terrorists who seek shelter among civilians.
11. **Ethical preparation and operation throughout Cast Lead:**

During the course of the operation, numerous measures and actions were taken in order to minimize collateral damage to the residents of the Gaza Strip:

  - a. over 1,250,000 leaflets were distributed
  - b. over 165,000 Gazan residents received telephone warnings
  - c. and the "Roof Knocking" technique, a proved successful deterrent, was used extensively

## Conclusions

12. Until effective international law is developed to regulate the war on terror, no decisive ethical code will exist. The dilemmas faced by the IDF in Gaza represent a challenge shared by all Western armies in preserving our core democratic values.
13. Until an effective deterrent exists, terrorists will continue to use civilians as human shields. The advantages to amoral forces of operating from densely-populated urban areas are clear, as are the media advantages arising from international condemnation of counter-terrorist operations in these areas. As a result, international legal attention to this issue is vital.