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The latest UN Human Rights Council (UNHRC) report on Israel (hereafter “the report”) is poorly reasoned and downright bizarre in many ways. This article focuses on one of its glaring flaws and botched legal analyses: Purporting to analyze the legalities of Israel’s actions while ignoring the basic criminal nature of Hamas and its attacks.

Hamas is an extremist Islamic terrorist organization, similar to Al Qaeda and ISIS, committed to annihilating and replacing Israel with an Arab-Muslim theocracy. The Hamas Charter advocates the next Jewish genocide, and Hamas attacks Israeli civilians by numerous means, including indiscriminate rocketings of nearby towns and villages. Israel conducted military operations to stop the rocketing. Gazans were killed because Hamas embedded its operatives within densely populated areas.

The report mostly ignores these basic facts, and places Hamas on the same footing legally as the State of Israel, treating each as “lawful combatants.”

This is wrong. Hamas rocket attacks are criminal, as is the purpose of the organization: to commit genocide. International law authorizes all nation-states to prevent and punish such crimes. Hamas is an international criminal organization, like Al Qaeda or the Colombian Drug Cartel. Characterizing Hamas’ crimes as “military” grants Hamas unwarranted legitimacy.

Worse, the report sidesteps the issue of criminal aggression. Even if it is a “lawful combatant,” Hamas remains liable for all the consequences of its attacks. When examining any conflict for war-crimes, the first issue is identifying the aggressor. All other questions are secondary. Ignoring Hamas aggression renders the report trivial.

Why is the aggression issue so important? While the “Law of War” has developed over centuries, World War II victors advanced it by founding the UN for the primary purpose of outlawing and preventing military aggression. A leading academic, Professor Michael Walzer, author of “Just and Unjust Wars” identifies 6 basic principles of the current law of aggression:

1. There is an international community of nation states.
2. It guarantees the inviolability of state territory.
3. Use of or threatened use of force is not just illegal but criminal.
4. States attacked or threatened can go to war to defend themselves (or other states can go to war to defend them).
5. Only response to military aggression justifies military action.
6. Aggressors must not only be stopped but punished as well.

Walzer adds further, “The aggressor is responsible for all the consequences of the fighting he begins.” (Emphasis added).  In other words, aggressors are responsible for every life lost in the war they start, including the deaths on their own side.

Hamas committed aggression in furthering its genocidal goals. The fact that its rocket attacks are unlikely to bring about Israel’s total destruction in no way lessens Israel’s legal right to thwart the aggression by any means necessary, short of counter-attacking the entire population of Gaza indiscriminately.

The report concedes Israel’s campaign was not indiscriminate generally, but directed against Hamas operatives. Therefore, to criticize Israel, the report analyzes in great detail isolated incidents it claims were indiscriminate or otherwise illegal, taking a hypercritical stance against the IDF and Israel’s civilian leadership.

What blame does the report assign to the Hamas regime for the death of hundreds of Gazans killed in the conflict? Virtually none. But, as explained above, Hamas is guilty for every death resulting from its rocket war. Israel, on the other hand, exercised the right of self-defense and is not legally liable for the unfortunate deaths of noncombatants unless they were specifically targeted as such – assuming such instances occurred.

As for any IDF misconduct in its targeting or other responses, the report grudgingly acknowledges that the IDF investigates its own mistakes and misconduct. So do the U.S., Canadian, British, and other Western militaries under similar circumstances – but, to the best of my knowledge, without UNHRC interference. Yet the UNHRC saw fit to detail each alleged misstep the IDF committed, despite the latter’s fighting from its own territory, defending the lives and property of Israeli citizens.

Nowhere does the report acknowledge Israel’s fundamental right to respond to such aggression. Moreover,  it is silent about the awful responsibility Hamas bears for starting the war altogether. Completely ignoring the one major war crime that was committed – the crime of aggression – takes UN hypocrisy and incompetence to a new low. As a legal document, the report is meaningless and foolish exercise that brings further well-deserved opprobrium on the UN.