As ICC bears down, NGOs dispute how many civilians were killed by the IDF

January 1, 2020

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The Jerusalem Post

<https://www.jpost.com/Middle-East/As-ICC-bears-down-NGOs-dispute-how-many-civilians-were-killed-by-the-IDF-612796>

Israeli NGO B’Tselem, the Israeli Information Center for Human Rights in the Occupied Territories, said on Wednesday that Israeli security forces killed 133 Palestinians in 2019. Their comment comes as the International Criminal Court bears down on Israel with potential war crimes allegations.

According to [B’Tselem](https://www.jpost.com/Arab-Israeli-Conflict/BTselem-address-UN-Security-Council-on-Gaza-Khan-al-Ahmar-569721), of 104 killed in Gaza, 56, or 54%, were civilians, and that of the 133 Palestinians in total, 28 were minors.

For B’Tselem, this proves that the IDF’s open-fire regulations violate international law, validating the ICC Prosecution’s decision to come after IDF soldiers.

By contrast, the [Meir Amit](https://www.jpost.com/Arab-Israeli-Conflict/Report-80-percent-of-Palestinians-killed-in-Gaza-border-crisis-were-terrorists-549511) Intelligence and Terrorism Information Center stated that approximately 90% of the 31 Gazans killed in marches on the Israeli border were terrorists or affiliated with terrorist groups, in a report provided to *The Jerusalem Post.*

The center does not maintain statistics regarding Palestinian deaths in the West Bank, where B’Tselem said that 26 Palestinians, including five minors, were killed by Israeli security forces.

But the Meir Amit Center was clear in stating that in the most covered arena, where Gazans marched on the Israeli border, the IDF’s rules of engagement were legal and killed very few innocent civilians.

Confronted with the contrary findings, a spokesman for B’Tselem said that the two sides might be making different kinds of claims.

The B’Tselem spokesman said that if a Palestinian was affiliated with a terrorist group in a general sense, but either never acted violently, or was not presenting any danger to IDF soldiers during the time period when he was shot, then the shooting violates international law.

The Center, which includes a variety of former senior Israeli intelligence officials, said that its findings about the identity of each killed Palestinian are comprehensively checked using objective empirical data.

They added that simply being a minor unfortunately does not mean that a Palestinian was not presenting a danger, citing examples of violent minors closer to the age of 18.

B’Tselem said that its data come from a balance of field interviews and electronic data.

Throughout the marches on the border, which date back to March 2018, Israel and human rights groups have debated the question of when it would be permissible for the IDF to open fire on Palestinians near the border fence.

In a May 2018 High Court of Justice decision, the IDF essentially got an endorsement for rules that allowed it to fire at the knees of “main inciters” of the protest, and at protesters who approached the wall presenting a general potential danger.

B’Tselem and other groups fiercely criticized these rules, saying that international law permits firing only on someone who presents a clear and immediate danger.

Part of the disagreement was that the IDF viewed the marches on the border fence as a quasi-war situation, in which a seemingly peaceful protest could suddenly turn violent, and thousands of Hamas activists could cross the border if the IDF did not keep the crowds at a safe distance.

In contrast, B’Tselem and others viewed the issue as a law enforcement situation, in which a general potential danger was insufficient for opening fire, even at the knees.

Part of the basis for the objection is that even if most shots only wounded people, inevitable misfires led to the large casualties noted by B’Tselem.

It is unknown what position the ICC Prosecution will take regarding the IDF’s open-fire rules, but its December 20 decision to move toward a full war crimes investigation of Israelis showed a strong possibility that it will take B’Tselem’s side.

The B’Tselem report also noted that 60 Palestinians were killed by Israel during the spike in fighting between Israel and Hamas in May and November, and said that approximately half were civilians.

The Meir Amit Center agreed with B’Tselem’s statistics in this regard, but said that the statistics were an anomaly, due to a single IDF mistaken attack that killed nine members of the A-Sawarkah family, including five children.

The IDF admitted on December 24 that its intelligence for that attack, indicating that no civilians were in the vicinity, was mistaken. Although the IDF legal division has not given a decision, usually, when civilians are killed due to an intelligence error, the IDF legal division closes any criminal probe, focusing instead on improving intelligence procedures.

B’Tselem also noted that 12 Palestinian attackers were killed in circumstances where they could have been arrested or otherwise neutralized without being killed.

In addition, B’Tselem said that seven Israelis were killed by terrorism emanating from the West Bank, or by a rocket attack from Gaza.

“The report [by B'Tselem] is unprofessional, misleading and incorrect and the accusations in it are baseless,” the IDF said in response.