Did US cover up airstrikes in Syria? What does it mean for Israel, ICC? - analysis

November 14, 2021

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The Jerusalem Post

<https://www.jpost.com/international/did-us-cover-up-airstrikes-in-syria-what-does-it-mean-for-israel-icc-analysis-684979>

The dust still has not settled following the stunning New York Times exposure this weekend of a series of [US airstrikes on an ISIS camp](https://www.jpost.com/international/us-military-hid-airstrikes-that-killed-dozens-of-syrian-civilians-nyt-684916) in Baghuz, Syria, on March 18, 2019 which may have killed dozens of civilians.

But the smell is awful and allegations of war crimes and a cover-up are in the air.

Of course, there are major differences between emotional reactions and legal analysis when it comes to the tragic killing of civilians in the midst of the fog of war.

If the narrative provided by official US spokespeople regarding the incident is accurate, there may not have been any war crimes.

According to US defense establishment claims, there was an imminent attack on Syrian Democratic Forces allies who desperately needed air cover.

ISIS had unleashed a counter-attack from its camp including a mix of armed attackers and mobile suicide bombers.

Moreover, large numbers of civilians had fled in anticipation of further US attacks on one of ISIS’s few remaining strongholds. So those who remained were viewed as very hardcore.

There are even some unclear reports about armed women and children.

If the US special Task Force 9 which dropped large and non-precision bombs on the camp, killing almost everyone, including up to 60 civilians along with two dozen ISIS fighters, did not know how many civilians were still there, arguing for war crimes would be difficult.

The problem is that multiple high-ranking US legal officials say that the official account has been a cover-up.

Moreover, the report suggests that legal officials have been studying a long series of incidents where Task Force 9 allegedly edited its reports to fool lawyers into leaving them alone.

According to official US legal critics of Task Force 9, the force did not use the best available drone coverage intelligence to check if there were civilians in the area.

Task Force 9 had a record of adding details to its reports, such as drones observed armed ISIS members, when reviews of drone coverage showed no such thing.

This is a very different scenario from anything Israel has generally dealt with.

There are always arguments about [war crimes](https://www.jpost.com/arab-israeli-conflict/war-crimes-court-concerned-over-violence-in-west-bank-prosecutor-667917) when Israel conducts airstrikes against Hamas after the terror group fires rockets on Israeli civilians. But usually the legal fight is over whether Israel should have had better intelligence to deter potential collateral harm to civilians near Hamas operatives.

No recent allegations included IDF lawyers accusing IDF commanders of “cooking the books” to make illegal strikes look legal.

This is probably what puts the Baghuz incident in a class of its own, in terms of severity. According to internal US legal official critics, no criminal probe was even performed.

Certainly, since 2009, Israel has performed legal probes of any incident where Palestinian civilians were allegedly killed – even if critics may say the probes are insufficient.

Part of what is so shocking about the allegations is the comparison with the 2015 Kunduz incident in which the US admitted to accidentally killing dozens of civilians when it bombed a hospital.

While to uninitiated ears, Kunduz and Baghuz may sound very similar, three critical facts define the differences between them.

Kunduz happened under the Obama administration, was in Afghanistan and was widely covered by Doctors Without Borders who had personnel on the ground.

Baghuz happened under the Trump administration, was in Syria and either no one survived or anyone who did was linked to ISIS in some way.

Israel supporters have plenty of criticism for the Obama administration, but there is no question that it emphasized a high level of scrutiny for airstrikes.

In contrast, while many Israel supporters liked the Trump administration’s support of Jerusalem globally, there is little question that it deemphasized scrutiny of airstrikes and that the top echelons were not terribly concerned about the laws of war.

Trump himself, on multiple occasions, threatened bombing or torture which would have been viewed by most international lawyers as blatant war crimes if implemented. Top US commanders are on record as saying they had to hold him back from giving such orders.

Americans and the world may care little about Afghanistan, but there was a larger media and human rights presence there than  in Syria where ISIS made it a mission to slaughter such people.

One response to the Times report that rejected a criminal probe emphasized that such probes only occur when major media and global attention has been drawn to the alleged war crime.

Kunduz was out in the public arena and could not be ignored. No one knew about Baghuz until this weekend.

The bottom line for Israel is that this affair makes its own system of investigations look far superior to the US system – at least under Trump from January 2017-January 2021.

That does not mean that the [International Criminal Court](https://www.jpost.com/israel-news/icc-adds-idfs-multiple-razing-of-khirbet-humsa-to-war-crimes-probe-677356) will give Israel a pass.

But new ICC Prosecutor Karim Khan recently decided to give the US a pass on torture allegations in Afghanistan and seems ready to give Russia a pass on other allegations, essentially due to a lack of resources or an inability to go after those parties.

Israel claims the ICC should not go after it on sound moral and legal grounds.

However, if the ICC chooses not go after Jerusalem for practical reasons or because going after Israel while leaving the US alone would look like open discrimination, the IDF will likely take that as a win also.