Is it legal for IDF to blow up banks, internal security? - analysis

May 13, 2021

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The Jerusalem Post

<https://www.jpost.com/arab-israeli-conflict/is-it-legal-for-idf-to-blow-up-banks-internal-security-analysis-668132>

Some of the focus of [Israeli air strikes](https://www.jpost.com/arab-israeli-conflict/israeli-ground-offensive-in-gaza-on-table-as-rocket-barrages-continue-668048) has suddenly shifted from its “target bank” of Hamas command and intelligence centers to Hamas’ bank.

A similar shift is taking place as the IDF starts to hit Hamas government institutions, such as its internal security headquarters.

Is this legal under the law of armed conflict? And is this the first major conflict the IDF is fighting with a full-fledged International Criminal Court probe of alleged war crimes hanging over it? How does this affect decision-making for the generals and the politicians?

Israel has faced war crimes allegations for some 20 years, when universal jurisdiction proceedings were brought against it in some European countries and elsewhere, as well as UN inquiries.

But that is not the same as being confronted by the ICC, a body that counts some 125 countries including most of Europe as its members, who are obligated to arrest anyone that the ICC tells them to apprehend.

The Jerusalem Post has learned that despite this new, unprecedented legal threat, the IDF is sticking with the same program it carried out in previous operations, both in warning civilians to leave areas it is targeting, and in going after Hamas even if it tries to use civilian settings as cover.

As in past wars, Hamas continues to purposely mix its civilian and military locations, and attempts to label some of its military operations as if they are intended to be civilian enterprises.

Legal authorization to attack a specific target is regulated by Article 52 and the related articles of Protocol I of the Geneva Conventions.

While the article itself is quite complex, it basically says one cannot attack a target that is not military in nature.

Israel is not a party to Protocol I.

However, the IDF has said that it consistently makes sure that it complies with its general provisions, including Article 52.

Police stations are usually viewed as only relating to internal law enforcement issues and not defined as military in nature.

Likewise, government buildings, such as internal security, and media outlets (the IDF has hit these in past conflicts and has done so this week) likewise appear to be inherently non-military, fulfilling information and governance functions only.

In that case, how could such places become targets?

According to a July 2009 Foreign Ministry publication on Operation Cast Lead, Hamas maintained a 30,000-strong military force, with 13,000 personnel members of internal security forces, including police.

In wartime, Hamas considers the police and internal security forces an integral part of its military, and they have been directed to aid in fighting against the IDF, often at the expense of preserving internal public order.

The 2009 report also indicated that Hamas police possessed not only assault rifles, but also hand grenades and anti-tank weapons.

By the same token, Hamas’ naval police had a record of firing on Israel Navy patrol and attack boats.

When non-military locations contribute to military action, their status can shift to becoming valid military targets.

Intelligence currently confirms that the above trends regarding Hamas’s internal forces are still in effect, which makes them valid military targets.

With political buildings that are dual-use, the question is not whether they are partially used for civilian purposes, but whether they are also used for military planning.

Adding banks and financial institutions of terror groups to the list of valid targets is another development that Israel and the US have used at times to fight wars.

The most widely reported instance may be a January 11, 2016, US strike on ISIS’ finance distribution center, in which $50 million of ISIS’ funds were incinerated.

The explosion produced an eerie plume of shredded $100 bills flying hundreds of feet into the air, one of several similar attacks.

Days later, US president Barack Obama even referred to an aggressive military campaign against ISIS’ finances.

Once again, the basis in going after such gray targets is if the finances can be proven to be directly connected to the adversary’s war effort.

The Post has learned that the specific bank that the IDF targeted was indeed inextricably involved in financing Hamas’ military operations.

The IDF’s approach will also continue even if it ends up using artillery to combat Hamas in urban settings as part of an invasion, as it has in past conflicts.

Even here, the IDF would say that it often limits the use of force based on a variety circumstances above and beyond what the law requires.

Regarding the ICC, the IDF is confident that its extensive legal analysis of targeting procedures and its investigation of incidents in which civilians might be killed will protect it from legal jeopardy.

Moreover, the IDF view would be that critics tend to latch onto incidents to blast Israel regardless of how carefully it selects targets and tries to evacuate civilians before striking.

In the IDF’s view, it has followed the laws of war in the past, and continues to do so.

Of course, it would be acknowledged that understanding why some targets are legal, like a bank, can require extensive context and revealing of classified information.

The ICC is taken into account by Israel’s diplomatic strategists, but the IDF view is that Lt.-Gen. Aviv Kohavi has been very clear that he will not allow Israeli civilians to be endangered simply because the IDF and the ICC may have different interpretations of gray areas of the laws of armed conflict.

Put simply, ICC pressure has not stopped Hamas from intentionally firing rockets on Israeli civilians, so the IDF must do the job.