

‘The grey zone’

How IDF views some journalists in Gaza as legitimate targets

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Journalists

INVESTIGATION

The investigation is part of the Gaza project, a collaboration led by the Paris-based non-profit Forbidden Stories, which has analysed the deaths of journalists in Gaza since Israel began its offensive.

The US-based Committee to Protect Journalists (CPJ) records at least 103 Palestinian journalists and media workers killed in the war in Gaza. Other lists suggest that the number is higher.

Since foreign media are blocked by Israel from entering Gaza, the work of documenting the war on the ground has fallen to Palestinian journalists in the territory, many of whom have continued to work despite grave risks to their safety.

In a war in which Israel has dropped tens of thousands of bombs on a densely populated territory, it is perhaps inevitable that so many journalists have been killed. Among the dead are also doctors, teachers, civil servants, aid workers, paramedics, and poets.

That so many Palestinian journalists and media workers — working for a wide range of local and international outlets — have been killed, injured, or detained by Israeli forces has raised concerns among press freedom organisations that the IDF has deliberately sought to silence critical reporting.

Among those listed by the CPJ as having been killed in Gaza since October 7, approximately 30% worked for media outlets affiliated with or closely tied to Hamas. Working with Arab Reporters for Investigative Journalism (ARIJ), a Jordan-based non-profit, the Guardian identified at least 23 individuals killed since October 7 who worked for the largest Hamas-run outlet in Gaza, al-Aqsa media network.

Considered to be the Hamas movement's official channel, al-Aqsa employed hundreds of people and operated a widely watched TV channel and numerous radio stations until the war curtailed its output. The outlet appears to have had the highest number of journalists killed during the current war.

Asked about the al-Aqsa network casualties, a senior IDF spokesperson told reporters in the Gaza project consortium that there was “no difference” between working for the media outlet and belonging to Hamas's armed wing, a sweeping statement legal experts described as alarming.

As Israel's offensive in Gaza has become the deadliest conflict for journalists in recent history, its military has repeatedly said it is not deliberately targeting the media. “There is no policy of targeting media personnel,” a senior official said, attributing the record number of journalists killed to the scale and intensity of a bombardment in which so many of Gaza's civilians have died. However, an investigation by the Guardian suggests that amid a loosening of the Israel Defense Force's interpretation of the laws of war after the deadly Hamas-led attacks on October 7, some within the IDF appear to have viewed journalists working in Gaza for outlets controlled by or affiliated with Hamas to be legitimate military targets.



A funeral ceremony in Khan Younis for the Palestinian TV reporter Abu Hatab, one of more than 100 media workers killed in the Israeli offensive
ANADOLU AGENCY

“It's a shocking statement,” Adil Haque, a law professor at Rutgers University in the US said, describing the position as showing “a complete misunderstanding or just a wilful disregard for international law”.

‘Reporting is not direct participation in hostilities’

Almost as soon as Israel began its aerial bombardment of Gaza in response to Hamas's assault on southern Israel — in which 1,200 people were killed and about 250 taken captive — the al-Aqsa headquarters were evacuated as executives believed the IDF would target the organisation, two sources said.

Operating in a media landscape tightly controlled by Hamas, the Islamist movement that has governed Gaza since 2007, al-Aqsa's programming is unmistakably pro-Hamas and anti-Israel.

On its TV channel, which now broadcasts as Seraj, news programmes are interspersed with footage of fighters attacking Israeli forces. Before the war, the

channel also broadcast religious programmes and dramas such as *Fist of the Free*, seen as Hamas's response to *Fauda*, a popular Israeli Netflix series about its security forces.

“Hamas believes the media is an important tool to approach people and deliver their message,” a veteran Gaza-based journalist said. Its media office gives instructions and appoints people in charge, they said. “They defend Hamas, no matter what.”

In 2018, the IDF bombed al-Aqsa's offices and claimed its building was used for military purposes. The following year, the Israeli prime minister, Benjamin Netanyahu, used broad legal powers to designate the media group as a terrorist organisation. The outlet, the designation claims, is “a propaganda arm of Hamas and constitutes a central platform for the distribution of inciting messages by the terror organisation”. Al-Aqsa has also been under US sanctions since 2010.

However, such designations

were made in domestic law and were not a blank cheque that allowed the IDF to kill its employees, legal experts said.

Under the laws of war, a journalist can lose their civilian status if they engage in planning, preparing, or carrying out combat operations. Simply working for an organisation such as al-Aqsa does not make someone a legitimate target to be killed.

“Reporting the news is not direct participation in hostilities,” Janina Dill, a professor at the University of Oxford and expert in the laws of war, said. “Even if they reported the news in a biased way, even if they did propaganda for Hamas, even if Israel fundamentally disagrees with how they report the news. That is not enough.”

Combatants, civilians

Multiple Israeli sources said there had been a permissive approach to targeting across the IDF in a war aimed at the “total destruction of Hamas”.

A person with knowledge of legal advice given to IDF commanders said journalists working for Hamas-affiliated media were seen to exist within a “grey zone” and there was a “problematic” view among some in the IDF that “whenever there's someone getting a salary ultimately from Hamas” they were considered to be a legitimate target.

“Hamas invests a lot of resources in its propaganda teams. They often won't do an activity if they don't have a photographer. They must document everything,” a military intelligence officer said. “So, some will tell you: ‘Look, a Hamasnik is Hamasnik.’”

In an interview with Radio France, one of the Guardian's partners in the Gaza project, the senior IDF spokesperson and reservist Col Olivier Rafowicz said there was “no difference between the political and the military wing of Hamas”.

“Al-Aqsa belongs to the Hamas war organisation and the people who work for it are active members of the war organisation of

Hamas,” he said. Numerous legal experts said this was a troubling position. While there may be particular individuals who engaged in both journalism and combat activities, they said, the suggestion that everyone working for a media organisation was a militant failed to distinguish between combatants and civilians.

“This is the most fundamental idea in international humanitarian law,” said Haque, the Rutgers law professor. “It is shocking to hear that a member of the IDF would openly and publicly reveal either their ignorance or their disregard for this fundamental principle.”

Attention must be paid, he said, to the differences between the activities of Hamas's armed wing, the Ezzedine al-Qassam brigades, and its political apparatus that employed tens of thousands of people in Gaza and ran schools, hospitals, courts, and municipal services.

“If a journalist is not part of Hamas's military wing, if they are not a fighter by role or function, then they're a civilian unless and for such time as they take a direct part in hostilities,” Haque added. After this article was published, the IDF issued a statement distancing itself from Rafowicz's remarks, made in a phone interview last month in which another IDF spokesperson was also present. “Rafowicz erred as these comments mischaracterise IDF targeting policy,” the IDF said.

Killed, arrested and detained

In response to a Guardian request for details about multiple al-Aqsa employees who had been killed, an IDF spokesperson said it “does not target civilian objects” but that the outlet “employs terrorists and affords them the facade of journalists”.

The spokesperson listed six of al-Aqsa's dead workers and alleged they were members of Hamas's armed wing and “assumed the disguise of journalists”. The IDF refused to provide any evidence to support the claims, citing intelligence sources.

Although journalists who have worked in Gaza said the way in which Hamas's military wing embedded itself within civilian life did not preclude using the media and some may wear “two hats”, Israeli officials have repeatedly characterised journalists killed