

Given that the resistance forces challenging Israel are well aware of this, why would they try to use a tactic that they know is futile? The answer is, they don't. Thus, the charge of human shields fails the test of logic. But it also fails the test of law. First, the situations in which Israel claims human shields are used do not qualify as cases of human shields under the international legal definition described above. Simply put, and as this definition makes clear, the mere presence of fighters nearby does not magically transform civilians into human shields.

Accordingly, Israel's charge of human shields usually has no basis in law whatsoever. Secondly, Israel alleges human shields in an attempt to shift blame and absolve its forces of legal responsibility. But what they miss is that even if human shields were used, this would still not reduce the legal obligations of the attackers. In fact, claims of the use of human shields do not justify an attack on civilians without the constraints imposed by international humanitarian and human rights law, and the attacker still remains accountable, even if the user of human shields is also accountable.

The attacker must still respect the principles of precaution, distinction, and proportionality to avoid harming non-combatants. In other words, the declaration of human shields is not a "get out of jail free card" under international law.

Therefore, as a matter of law, even where human shields are present, the attempt to shift blame and absolve the shooter of responsibility fails.

Palestinians don't use 'human shields' but Israel does

And then there is the pesky problem of facts.

Israel has produced no credible evidence of the use by Palestinian resistance groups of human shields in the current Israeli attacks on Gaza. It relies instead on the uncritical, rote repetition of the charge by its Western sponsors and proxies and Israel-friendly media corporations. The charge is without evidence, and one would not hold violators to account, but as a justification for Israeli war crimes. This is not to suggest that no Palestinian combatant has ever in history used human shields. But the charge that they do so regularly or systematically is a charge without evidence, and one would not hold violators to account, but rather as a justification for the commission of Israeli war crimes.

At the same time, we have all seen the video footage of Israeli soldiers using Palestinians as human shields across Gaza (and the West Bank). We have viewed with our own eyes the images of Palestinians (often children) tied to the hood of Israeli military jeeps, forced to walk ahead of a column of Israeli occupation soldiers or to lead the soldiers into buildings or other structures. The practice is as old as the state of Israel itself.

In every successive Israeli attack on Palestinian communities, the pattern has been the same: Israel accuses the Palestinians of using human shields, international organizations, and human rights groups investigate, and the investigations

reveal that the party systematically using human shields is not Palestine, but rather Israel.

Indeed, the Israeli human rights group B'Tselem has documented the repeated use by Israel of human shields at least since 1967. Investigations by both Amnesty International and Human Rights Watch into Israel's "Operation Cast Lead" attacks in Gaza found evidence that Israel used human shields (including children) but found no evidence that Palestinian groups did so.

Similarly, successive UN Commissions of Inquiry that investigated the massive Israeli attacks on Gaza in 2008-2009 and in 2014 looked into Israel's claims and found no evidence of Palestinians using human shields. The UN Committee on the Rights of the Child found "the continuous use (by Israel) of Palestinian children as human shields" from 2010 to 2013. The UN's Special Rapporteur on terrorism reported the same finding.

A typical finding is included in Amnesty International's investigation into Israel's Cast Lead attacks:

"In several cases Israeli soldiers also used civilians, including children, as 'human shields' ... However, contrary to repeated allegations by Israeli officials of the use of 'human shields', Amnesty International found no evidence that Hamas or other Palestinian fighters [did so]." And in the report on the "white flag killings" of Palestinian civilians, Human Rights Watch confirmed that "Israel says Hamas fought from populated areas and used civilians as 'human shields'—that is, deliberately used civilians to deter attacks against Palestinian forces... Human Rights Watch found no evidence that the civilian victims (in its investigation) were used by Palestinian fighters as human shields."

But the Israeli practice of using human shields is a matter of public knowledge inside Israel, having long been the subject of public debate. Israel soldiers, speaking to the Israeli organization Breaking the Silence, have themselves confessed to the widespread practice. It has been reported in Israeli media, most recently in an expose in Haaretz last month. The Israeli military has even publicly defended its "right" to use human shields in successive Israeli court cases. Of course, those instances in which it lost the argument have had little impact on the military, which continues the practice until today.

Thus, Israel's hasbara disinformation tactics have been an important pillar in its strategy for the destruction of Gaza since the current wave of genocide in Gaza began almost a year ago. False charges of human shielding have been key to those tactics.

But that deception crumbles at even the most cursory examination. If Western politicians and journalists exercised even the most basic level of due diligence before parroting Israeli claims, if they subjected them to the tests of law, fact and logic, the truth would be quickly revealed. The party that routinely uses human shields is Israel, not Palestine.

A common refrain in the public discourse on Palestine is that "every Israeli accusation is a confession." The double lie of human shields is a case in point.

The article first appeared on *Mondoweiss*.

Israel's pager bombs have no place in a just war



By Michael Walzer
Author

OPINION

The exploding pagers and walkie-talkies targeting members of Hezbollah in Lebanon were certainly an espionage and technological coup. Few people on the spot or reading about them from far away could fail to be amazed. But the explosions on last Tuesday and Wednesday were also very likely war crimes — terrorist attacks by a regime that has consistently condemned attacks on its own citizens. Yes, the devices most probably were being used by Hezbollah operatives for military purposes. This might make them a legitimate target in the continuous cross-border battles between Israel and Hezbollah. But the attacks, which killed tens of people and wounded thousands of others, came when the operatives were not operating; they had not been mobilized and they were not militarily engaged. Rather, they were at home with their families, sitting in cafes, shopping in food markets — among civilians who were randomly killed and injured. Israel has neither confirmed nor denied responsibility for the attacks but is widely believed to be behind them. If those allegations are true, it is important for friends of Israel to say: This was not right.

The theory of just war depends heavily on the distinction between combatants and civilians. In contemporary warfare, these two groups are often mixed together in the same spaces — often, indeed, deliberately mixed together, because the killing of civilians invites moral condemnation. The war that Hamas designed in Gaza is a grim illustration of the strategy of putting civilians at risk for political gain. Still, a military responding to this strategy has to do everything it can to avoid or minimize civilian casualties. Israel claims to be doing that in Gaza, although serious criticism of its conduct there has appeared in media around the world, not to mention a case brought against Israeli and Hamas officials alike at the International Criminal Court alleging war crimes and crimes against humanity.

No similar claim of minimizing risk to civilians can be made for the decision to explode the devices. They were not distributed by Hezbollah in order to put its people at risk. This was not a plot to force Israel to kill or injure civilians. The plot was Israel's, and the plotters had to know that at least some of the people hurt would be innocent men, women and children. Israel's recent assassinations of Hamas and Hezbollah leaders requires a more complicated, but still critical, political and moral response. These were men actively supporting attacks on Israel, who certainly knew themselves to be targets — I would say legitimate targets — of assassins who could be operating from close up or far away. But when a government authorizes the killing of men it is directly or indirectly negotiating with, such as the Hamas leader Ismail Haniyeh in July, we have to conclude that it isn't committed to the negotiations' success. That is politically and morally wrong, not only from the standpoint of the large number of Israeli citizens (including my friends in Israel) who are strongly, even desperately, committed to ending the war and bringing the prisoners home, but also from the standpoint of all the victims of the Gaza war.

However, let me make a distinction here. Condemning an act of war is not the same as condemning the war it-



People walk near an ambulance outside American University of Beirut Medical Center in Beirut as people were wounded and killed when the pagers they use to communicate exploded across Lebanon on September 17, 2024.
● MOHAMED AZAKIR/REUTERS

self. Hamas and Hezbollah are fighting against Israel. Long ago, Abba Eban called this the crime of picide. In his day, Israel's enemies were motivated by a nationalist determination to reverse (literally) the nakba, the flight and expulsion of Palestinians in 1948 from what became Israel. Today, the goal is religiously driven and zealously pursued. That this crime has found supporters and apologists in the United States and Europe, often among secular leftists, is even more amazing than the exploding pagers. So, it is important to distinguish the judgments we make about the conduct of war from the judgments we make about the decision to go to war. Hamas's attack on Oct. 7 was meant to start a war,

and Israel's response, though Hamas expected it and wanted it, was nonetheless justified. It is hard to imagine any country responding differently. Hezbollah in Lebanon joined Hamas almost immediately by lobbing rockets into northern Israel continually but also carefully, seemingly intending a limited engagement. In this way it has been supporting its ally without committing itself to full-scale war. Israel has helped maintain those limits with its own controlled responses, although it has not refrained from targeting Hezbollah commanders. The result has been the forced evacuation of destroyed towns and villages on each side of the Israel-Lebanon border,

without significant damage to the rest of the countries. But the exchanges have become deadlier, and pressure has been building in Israel (which is, unlike Lebanon, a functioning democracy where political pressure is possible) to act in a stronger way to make the northern border communities safe. Perhaps the exploding electronic devices represented an attempt at strong action. I can't believe it will make anyone safer. It invites retribution, and even if retribution is for the moment difficult, the desire for revenge won't go away.

What the attacks demonstrate with blinding clarity is the importance of a political solution to the war in the north, which can only come along with some kind of cease-fire in the south. A catastrophic war with Lebanon is now the greater danger, but what began on Oct. 7 must be dealt with first to avoid it.

At this moment, any political proposal is bound to be called naïve. Leaders on both sides seem to believe that war is the only way forward. Prime Minister Benjamin Netanyahu of Israel has said as much. Hamas's leader, Yahya Sinwar, and the leader of Hezbollah, Hassan Nasrallah, are committed to a policy of doing whatever it takes to destroy Israel, even if what it takes is eternal war.

One war may be just and the other unjust, but today anyone who aims at continuing the fight must be condemned. The victims of the exploding pagers and walkie-talkies, the general amazement at what is possible in war today, the fear of what will come tomorrow — all this proves the necessity of a political solution.



A man holds a walkie-talkie with its battery removed during the funeral of people killed after hundreds of paging devices exploded across Lebanon.
● ANWAR AMRO/AFP

The full article first appeared on *The New York Times*.