

# How Israel attempts to justify indiscriminate attacks on civilians (and why it's failing)



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## OPINION

*In the wake of Israel's brutal mass terror attack on Lebanon, deploying internationally proscribed booby traps through pagers and other communication devices distributed in communities across Lebanon (and Syria), and predictably resulting in the death and maiming of large numbers of civilians, the international legal and human rights community, shocked by the blatant criminality of the attack, roundly condemned it.*

▶ Palestinians mourn their relatives killed in the Israeli bombardment of the Gaza Strip, outside the hospital in Khan Younis, on Nov. 14, 2023.  
● FATIMA SHBAIR/AP



And blatant it was. International humanitarian law (IHL) explicitly prohibits the use of booby traps or other devices in the form of apparently harmless portable objects (like pagers) that are specifically designed and constructed to contain explosive material.

It also prohibits indiscriminate weapons, tactics, and attacks, such as distributing booby-trapped devices across a population in circumstances where the originators of the weapons would have no way of knowing who was holding or close to the device when it detonates.

It prohibits the intentional spreading of terror among the civilian population, as was clearly intended in this case, and in the low-flying Israeli jets that followed, emitting sonic booms and dropping flares to frighten the already terrified population.

It prohibits the targeting of non-combatants, a status held by many of those who received the pagers.

It is a clear violation of the IHL principle of precaution, as no effort was apparently made to protect civilians who were in the vicinity of the explosions.

And international human rights law prohibits extrajudicial executions.

As was clearly intended, dozens were killed and thousands more were wounded, many suffering severe, traumatic injuries, and a significant number were permanently disabled. Victims included children, women, passersby, medical personnel, civilian workers, and others.

Even among the people affiliated with Hezbollah (which is not only a military force but also a political party, part of the elected government, and administrator of several civilian programs and services), many were reportedly not involved in any way with military operations or functions.

In other words, many of the victims—actually targeted—were civilian non-combatants, and thus protected persons under international humanitarian law. Indeed, so clear was the criminality of the act that unequivocal statements of condemnation and calls for legal accountability were quickly issued by authoritative voices from across the globe. International organizations, human rights groups, humanitarian law scholars, and prominent international lawyers all agreed: this was a crime under international law, and one marked by exceptional cruelty and audacity.

The UN High Commissioner for Human Rights, 22 of the UN's mandated independent human rights experts, Amnesty International, Human Rights Watch, and a broad array of prominent international lawyers all quickly condemned the attacks as clear violations of international law. The strong reaction of these authoritative voices was predictable in a case of such obvious criminality. This was not an act that fell within the gray areas of international law. This was the kind of clear violation of fundamental rules of international law (and on a mass scale) that could be prosecuted by any first-year law student.

Nor was Israel's perpetration of this kind of horror a surprise. Israel has been infamous for decades for the transnational assassination of its adversaries. Emboldened by decades of Western-sponsored impunity, lawlessness has been the hallmark of Israeli operations since its creation by the West some 76 years ago.

Of course, given the ubiquity of Israeli propaganda in Western media and social media, we should not be surprised by the phalanx of legal propagandists who were quickly deployed to do damage control in the public discussion for Israel.

### Israeli playbook to justify war crime

Many, predictably, deployed the tired old "collateral damage defense." But you cannot claim that civilians were merely "collateral damage" if the underlying act was itself a crime. The use of prohibited booby traps is a war crime.

A nine-year-old girl killed by a booby trap that she was holding (as was the case in Lebanon) is not collateral damage. She is the victim of a war crime.

Then there is the "magic-word defense." Here, Israel's defenders try to use certain nouns as trump cards. By saying that the targets were "Hezbollah" or "terrorists", (just as they have tried to do with "Hamas") they seek to create a law-free zone in which the rules of international law (or even basic morality) don't apply. But calling someone a "terrorist" or saying that they are affiliated with a group that you dislike or consider to be terrorist, is not a legal argument. At

the very heart of international humanitarian law is the distinction between combatants and non-combatants.

Superimposing another label on top of a civilian population that you do not like does not make them legitimate targets. Indeed, even attempting to re-label combatants in this way does not relieve Israel of its obligations under international humanitarian and human rights law. Unlawful weapons and tactics remain unlawful, regardless of the labels the attackers apply to their targets.

All countries accuse their adversaries of terrorism. However, many across the globe do not consider the Palestinian and Lebanese resistance groups to be terrorists, while they do consider Israel to be a terrorist state.

Does the mere utterance of these "magic words" entitle attackers to deploy unlawful booby traps, to attack civilians and civilian infrastructure, and to commit the crime of murder? Of course not, and international law is clear on this point as well. To apply a racist lens in order to deny the same protections of international law to the Lebanese (or Palestinians) is both morally reprehensible and a breach of the law itself.

And then of course, "the smear", the familiar fallback tactic of Israel apologists has also been widely (and predictably) deployed. Where their arguments fail on the law, facts, and logic, they simply resort to the charge that critics of Israel's crimes are "antisemites" or "supporters of terrorism."

But the smear has been so fre-

quently, automatically, and disingenuously deployed against every critique and every critic of Israel, that it no longer has any impact among thinking people.

It is generally understood, rather, as a confession of defeat in an argument on the merits, and a transparent attempt to shift attention away from the facts and the law.

Of course, these carefully crafted distortions, ungrounded as they are, are not designed to win a legal argument in court. Rather, they are intended to muddy the waters in the public conversation to shore up Israeli impunity and preserve the continuous flow of weapons, money, and diplomatic cover from Western countries.

And these distortions are not new. They have been a key element in Israel's propaganda arsenal for years.

As Israel's proxies in the West dutifully inject them into the public discourse, major media outlets repeat them non-critically, without the slightest pretense of journalistic due diligence. As clear crimes disappear behind intentionally muddied waters, Israel moves on to its next atrocities, encouraged by the repeated shoring up of its impunity in the West.

But those tricks are beginning to fail.

### Challenging Israeli impunity

Israel's crimes are now under review by both the World Court and the International Court of Justice. Abundant evidence has been collected by the UN and by international, Palestinian,

and Israeli human rights organizations. And the international community is calling them out. Francesca Albanese, the UN's Special Rapporteur on human rights in occupied Palestine, has documented how "Israel has [deployed] IHL concepts such as human shields, collateral damage, safe zones, evacuations and medical protection in such a permissive manner so as to gut these concepts of their normative content, subverting their protective purpose and ultimately eroding the distinction between civilians and combatants in Israeli actions in Gaza." And she reveals how "Distorting IHL customary rules, including distinction, proportionality and precautions, Israel has de facto treated an entire protected group and its life-sustaining infrastructure as 'terrorist' or 'terrorist-supporting', thus transforming everything and everyone into either a target or collateral damage, hence killable or destroyable."

As absurd as they are in legal terms, such distortions by Israel and its proxies must be addressed seriously. Israeli impunity is a common threat to Palestine, Lebanon, the wider region, and the world. Those working to buttress that impunity must be held to account.

And, beyond the direct victims of Israel's unchecked crimes, we must also be concerned about the erosion of international law that can result both from these repeated campaigns of distortion and from Israeli impunity itself.

If Israel can sneak into the supply chain and booby-trap personal devices, so can everyone else. If Israel can commit audacious acts of transnational terrorism, so can everyone else. If Israel can maim and murder civilians, label them "human shields" or "collateral damage" and walk off scot-free, so can everyone else.

Is this the world the West wants to build for itself, all in the name of protecting one violent and oppressive foreign regime?

We will soon find out. There will certainly be an independent investigation into these crimes. No doubt Israel will refuse to cooperate, and its Western sponsors will do all they can to block it.

But when the day in court comes, as it must, the ridiculous arguments and obvious distortions that Israel and its proxies have put forward to justify the criminal attack on Lebanon will not save them.

There is a growing drumbeat in the Hague, at the UN, on college campuses, and in the streets of capitals around the world. Justice can see through the smoke. And justice is coming.

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