



Hamas War Crimes Harm Palestinians and Israelis Alike

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Though it is Israel most commonly, and wrongly, accused of war crimes in the media or by international organizations, Hamas has committed numerous human rights violations and war crimes since the war began. Not just when it murdered, burned, raped, and kidnapped Israeli civilians on October 7, but also against the Palestinian civilians of the Gaza Strip. These include operating from civilian facilities, diverting aid from Palestinians, beating up Palestinians trying to access aid, and shooting at civilian convoys evacuating the combat zone of northern Gaza.

These acts stand directly in contravention of the law of armed conflict (LOAC), which prohibits combatants from operating from civilian areas, failing to take measures to protect civilians, conducting indiscriminate attacks, and engaging in psychological terror. They are also part of a calculated Hamas strategy to create Palestinian civilian casualties and blame them on Israel to force it to yield to international pressure and capitulate before achieving its objectives. To counter both Hamas's ongoing information warfare strategy and the tragic loss of Palestinian life at Hamas hands, the United States should work actively to disseminate facts about Hamas violations of LOAC and thereby contextualize its critiques of Israel's conduct during its combat operations in Gaza.

What Happened?

- On November 22, Israel's *Channel 12* [conducted](#) interviews in the Gaza Strip with a number of Palestinians who criticized Hamas and its myriad human rights abuses.
 - » One resident reportedly stated, "the reason for this destruction is Hamas," while another said "I would tell [Hamas leader Ismail] Haniyeh to come to Gaza. Taste the suffering we are going through, instead of sitting in Turkey, in Istanbul, where you eat fish."
 - » The report also quoted an IDF soldier in Gaza as saying, "[Palestinians] speak to us in broken Hebrew, [saying] 'thank you for being here, thank you for saving us, beat Hamas.' ... the children come and say, 'we hate Hamas. Thank you for being here.'"
- On November 18, U.S. President Joe Biden [wrote](#) in a *Washington Post* op-ed that Israeli [precautions](#) stand "in stark opposition to Hamas's terrorist strategy: hide among Palestinian civilians. Use children and innocents as human shields. Position terrorist tunnels beneath hospitals, schools, mosques and residential buildings. Maximize the death and suffering of innocent people — Israeli and Palestinian."
- On October 30, in [response](#) to a reporter's question, "since you have built 500 kilometers of tunnels, why haven't you built bomb shelters, where civilians can hide during bombardment?", senior Hamas official Mousa Abu Marzouk said that "[Hamas has] built the tunnels because we have no other way of protecting ourselves from being targeted ... it is the responsibility of the United Nations to protect [civilians in Gaza]."

Hamas Violations of the Law of Armed Conflict During the War

<i>Types of Violations</i>	<i>Principle Violated</i>	<i>Examples</i>
<i>Operating From Civilian Areas and Facilities</i>	<ul style="list-style-type: none"> • Combatants must distinguish themselves from civilians (<i>Geneva Convention Additional Protocol I</i>) 	<ul style="list-style-type: none"> • 11/21/23: the IDF locates Hamas weapons in residential buildings and children’s bedrooms, and finds a missile under a baby’s crib. • 11/08/23: The IDF announces that it had confiscated over 4,000 Hamas weapons from inside mosques, elementary schools, and residential buildings in Gaza since the war began.
<i>Diverting Aid From Civilians and Hospitals</i>	<ul style="list-style-type: none"> • Constant care must be taken to spare the civilian population (<i>Geneva Convention Additional Protocol I</i>) 	<ul style="list-style-type: none"> • 11/22/2023: Israel’s <i>Kan</i> TV network posts footage of Hamas stealing humanitarian aid and beating up Palestinians trying to access the aid. • 11/01/2023: The IDF releases an audiotape of a Hamas operative demanding that a hospital worker transfer 1,000 liters of fuel to Hamas.
<i>Threatening and Attacking Palestinians Evacuating Combat Zones</i>	<ul style="list-style-type: none"> • Prohibition on using psychological terror (<i>Geneva Convention Additional Protocols I and II</i>) • Indiscriminate attacks are prohibited (<i>Geneva Convention Additional Protocol II</i>) 	<ul style="list-style-type: none"> • 11/11/23: Hamas kills an estimated six Palestinians and injures 53 in terrorist attacks on the humanitarian corridor from northern to southern Gaza. • 11/04/2023: Hamas tries to prevent Palestinians from fleeing northern Gaza and kills at least 12 fleeing Palestinians.

Why Is It Important?

- Hamas's numerous LOAC violations—including operating from civilian facilities, diverting aid from civilians and hospitals, and attacking Palestinians evacuating combat zones—aim to increase Palestinian casualties, thereby advancing its goal of delegitimizing Israel in order to yield international pressure on it to cease its combat operations. Hamas uses its LOAC violations to paradoxically accuse Israel of violating LOAC, waging lawfare and warfare in tandem to try to defeat Israel in the court of public opinion as well as kinetically.
- Hamas's use of civilian facilities to hide, stockpile weapons, and launch attacks [violates](#) the LOAC obligation, codified under the Geneva Convention's Additional Protocol I, that combatants must distinguish themselves from the civilian population. By operating from civilian facilities, Hamas aims to increase civilian casualties in Gaza as part of its concerted information warfare campaign to generate international pressure against Israel.
 - » Hamas's operational headquarters and entrances to its terror tunnel network are [located](#) under Shifa Hospital, the largest hospital in Gaza, in direct contravention of LOAC.
 - On October 28, the IDF released [video](#) of an interrogation of a Hamas terrorist involved in the October 7 attacks. The terrorist stated, “most of [the tunnels] are hidden in the hospitals,” adding “Shifa [Hospital], for example, there are underground levels.”
 - On November 8, the IDF and Israel's internal security service, the Shin Bet, [released](#) an audiotape of a Hamas operative stating to another Hamas member that he “can leave with any ambulance.”
 - The IDF and Shin Bet also released video of an interrogation with a different captured Hamas operative, who [stated](#) that “during combat, the ambulances are used, among other things, to evacuate fighters, commanders and operatives. They also transport food, cargo and weapons in them.”
 - » The IDF has [confiscated](#) over 4,000 Hamas weapons from inside mosques, elementary schools, and residential buildings in Gaza since the war began.
- Hamas's use of civilian facilities to house its operatives and weapons aims to promote its false narrative that Israel is spuriously targeting civilians, as Hamas can subsequently accuse Israel of war crimes after the IDF strikes civilian infrastructure, despite Hamas's presence rendering them [legitimate](#) targets.
 - » As JINSA Distinguished Fellow LTC (ret.) Geoffrey Corn has [noted](#), “for Hamas, combat is a supporting effort to its information campaign.”
- By [seizing](#) aid intended for suffering civilians in Gaza in violation of the LOAC constant care principle codified in the Geneva Convention's Additional Protocol I, which [states](#) that in wartime, “constant care shall be taken to spare the civilian population, civilians and civilian objects,” Hamas [exploits](#) the worsening humanitarian situation in Gaza to advance its information campaign against Israel and, paradoxically, increase the aid flows into Gaza.
 - » Aid seizures also enable Hamas to exacerbate the humanitarian situation in Gaza and generate images of starving and sick Palestinians, which Hamas uses to cast blame on Israel and generate greater international criticism. Hamas's aid seizures also have a cyclical effect, compelling Israel and the international community to send yet more aid that Hamas can seize and use for military purposes.
 - » On November 22, Israeli media [posted](#) footage of Hamas stealing humanitarian aid from a truck and beating up Palestinians trying to access the aid. In October, the IDF released images [showing](#) tanks containing an estimated 500,000 liters of fuel inside a Hamas compound in the Gaza Strip.

- » On November 1, the IDF [released](#) an audiotape of a conversation between a Hamas operative and a doctor at the Indonesian Hospital in the Gaza Strip, in which the Hamas operative demands the transfer of 1,000 liters of fuel to Hamas, to which the doctor replies that Hamas already came to the hospital the prior day to seize fuel.
- Hamas efforts to prevent Palestinians from evacuating the combat zones of northern Gaza to southern Gaza are in violation of LOAC [prohibitions](#) on indiscriminate attacks and efforts to “spread terror” among the civilian population, and represent another means of increasing civilian casualties which can be blamed on Israel.
 - » Hamas repeatedly warned civilians not to evacuate along the humanitarian corridor Israel opened on a several-hour basis nearly every day from November 4 to November 21, even [calling](#) the corridor’s existence “a lie,” and [launched](#) fatal attacks on fleeing Palestinian civilians.
 - On November 4, the first day Israel announced the opening of the humanitarian corridor, Hamas killed at least 12 Palestinians attempting to [flee](#) northern Gaza.
 - The same day, Hamas [fired](#) on IDF soldiers attempting to oversee the humanitarian corridor.

What Should the United States Do Next?

- The U.S. government’s public remarks and messaging around the war should [reflect](#) President Biden’s sentiment that Hamas’s strategy is to “hide among Palestinian civilians. Use children and innocents as human shields. Position terrorist tunnels beneath hospitals, schools, mosques and residential buildings. Maximize the death and suffering of innocent people — Israeli and Palestinian.”
- When critiquing Israel’s conduct in its combat operations in Gaza, U.S. officials should contextualize its criticisms with accurate depictions of Hamas LOAC violations, particularly its operations from civilian locales and facilities.
- The United States should produce resources to shed light on Hamas’s LOAC violations, such as issuing a [White House Fact Sheet](#) or [Congressional Research Service](#) report expounding on the topic.