

Religious Orthodox Influence on IDF Code of Conduct in Gaza  
Operation Cast Lead - December 27th, 2008

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The views expressed in this paper are those of the author and do not reflect the official policy of the U.S. Department of Defense nor the U.S. Department of State

## **Religious Orthodox Influence on IDF Code of Conduct in Gaza “Operation Cast Lead”**

On the morning of December 27<sup>th</sup>, 2008, Israeli Defense Forces (IDF) launched dozens of air attacks against targets in the Gaza Strip. In the following days Israel launched a ground offensive using heavy artillery, and mortars against civilian occupied apartment buildings suspected of harboring Palestinians who for months had been firing rockets into southern Israel. On January 4<sup>th</sup>, IDF forces entered the Gaza Strip with tanks and personnel carriers taking control of many parts of the city. On January 18<sup>th</sup> Israel declared a cease fire.<sup>1</sup>

The full magnitude of destruction and devastation to the Palestinian population is just coming to light. Israel called the offensive into the Gaza Strip “Operation Cast Lead”. In the 22 days of military operations, 1,300 Palestinians were killed and over 5,320 were wounded. Over 1,200 buildings and 80 hothouses were destroyed. Tens of thousands of persons were left homeless.<sup>2</sup>

The 1949 Geneva Convention relative to the “Protection of Civilian Persons in Time of War” established principles of international law that are intended to protect civilians and reduce as much as possible harm to them during hostilities. Military forces are required to distinguish between combatants and non-combatant civilians.<sup>3</sup>

No matter how difficult it was for IDF commanders in Gaza in rooting out Hamas fighters that were hiding within the civilian population, the IDF and the Israeli government was expected, by the international rules of conduct, to act according to the principles of international humanitarian law by protecting civilians near and within the areas that they attacked.

This paper will identify the religious based moral and ethical justifications that led IDF ground forces to deliberately violate internationally accepted rules of conduct governing the civilian population of Gaza.<sup>4</sup>

### **IDF Violations of 1949 Geneva Convention<sup>5</sup>**

#### *Destruction of the City*

During and after Operation Cast Lead there were numerous reports in the media regarding the massive force used by the military. Alex Fishman wrote in Yediot Aharonot “The intensity of the fire was unprecedented in IDF warfare inside an urban area. In Operation Cast Lead not one house along the Philadelphi Corridor was left intact. Division commanders were allowed to strike any house suspected of being booby-trapped. When they entered Beit Lahiya every second house on average was shelled”.<sup>6</sup>

#### *Use of Prohibited Weapons*

The military made extensive use of artillery and mortar fire after Israeli troops entered the Gaza Strip. The deviation of artillery and mortar fire from the actual target could be More the 300- 400 meters.<sup>7</sup> In the densely populated areas of Gaza this deviation impacted civilians. The Israeli military also used white phosphorus rounds in the Gaza

strip. The use of white phosphorus munitions in civilian areas is banned under international law.<sup>8</sup>

### Shooting Civilians

B'Tselem received reports of IDF soldiers intentionally aiming gunfire directly at civilians who were neither involved in hostilities, nor posed any danger to soldier's lives in any way. In some cases soldiers fired even though civilians were waving white cloth to make it clear that they were not armed and did not intend to endanger the soldiers. Reports were received regarding people shot by soldiers while trying to evacuate other civilians who had been wounded near their houses.<sup>9</sup>

### Human Shields

According to testimonies the Israeli military used Palestinians as human shields during the operation. Civilians told B'Tselem Israeli soldiers ordered them to enter buildings first to ensure that they were not booby trapped. At other times they forced people to remove suspicious objects from roads. The use of civilians as human shields is absolutely prohibited under international and humanitarian law.<sup>10</sup>

### No Way Out for Civilians

During Operation Cast Lead civilians had nowhere to flee, to escape the fighting, artillery and mortar fire. Unlike other conflicts where refugees for the most part have an exit route through which to flee, the people of Gaza remained trapped within a small area. Israel locked down all crossings out of Gaza and Egypt refused to open the Rafah crossing in the south. The IDF did not provide an exit for them to take.<sup>11</sup>

### Delays in the Evacuation of Wounded

During the operation there were reports that Israel was preventing ambulances from reaching wounded persons and that soldiers were preventing wounded persons from getting to hospitals.<sup>12</sup>

### **IDF Code of Conduct**

In 1992 the IDF drafted a Code of Conduct and Core Values that are a combination of 1949 Geneva Convention, international law and Israeli law governing the status of non-combatants.<sup>13</sup>

“the IDF and its soldiers are obligated to protect human dignity. Every human being is of value regardless of his or her origin, religion, nationality, gender, status or position.

“the IDF servicemen and women will act in a judicious and safe manner in all they do, out of the recognition of the supreme value of human life”

“the soldier shall make use of his weaponry and power only for the fulfillment of the mission and solely to the extent required, he will maintain his humanity even in combat. The soldier shall not employ his weaponry and power in order to harm non-combatants or prisoners of war, and shall do all he can to avoid harming their lives, body, honor and property.”



“IDF soldiers will be meticulous in giving only lawful orders and shall refrain from obeying blatantly illegal orders”.<sup>14</sup>

### **Orthodox Rabbis Dictate a Religious Code of Conduct in Gaza**

In 2008, a booklet entitled *Go Fight My Fight: a Daily Study Table for Soldier and Commander in a Time of War* was published especially for Operation Cast Lead.

The booklet draws on the teachings of Rabbi Shlomo Aviner, head of the Ateret Cohanim, an Orthodox Jewish extremist seminary in East Jerusalem. In the booklet Aviner compares Palestinians to the Philistines, the warlike tribe depicted in the Bible who sought to annihilate the Jewish people.<sup>15</sup> Aviner also encouraged IDF soldiers to disregard the international laws of war with regard to the protection of non-combatants. “When you have mercy on a cruel enemy you are thereby showing cruelty to innocent and honest (Jewish) soldiers. It is a terrible immorality. These are not amusement park games where being a good sport means going easy”<sup>16</sup>

### **Rabbinical Halachic Perspectives on the Status of Non Combatants**

The following Rabbis (Rav) are highly influential Talmudic and Halachic scholars who have given recent opinions relating to the treatment of civilians and non-combatants in war. All listed are in agreement on the treatment of civilians in just wars.<sup>17</sup>

Rav Avraham Shapira, Rav Yaakov Ariel, Rav J.David Bleich, Rav Hershel Schachter  
Rav Mordechai Willig, Rav Sherlow and Rav Dov Lior.<sup>18</sup>

Justifications for Civilian Casualties<sup>19</sup>

When a nation wages war against another nation the war is waged without distinguishing between combatants and non combatants. The position of the aforementioned Rabbis is that the Israeli army is clearly entitled to risk the lives of civilians in its efforts to eradicate terrorists. The critical question is whether Israel must risk the lives of its soldier's lives in order to reduce civilian casualties. To this the consensus was no.

“in times of war there surely exists a firm Halachic basis for any action done in order to insure that not even one soldier should be, God forbid, harmed”. In fact the rabbis say Israel acted immorally when it risked the lives of IDF soldiers in Lebanon in 2006 in order to reduce civilian casualties. They are all in agreement that it is forbidden to risk Israeli lives in order to save Arab civilians.<sup>20</sup>

Rav Schachter and Rav Sherlow explain “winning a just war constitutes an ethical imperative. The compassion we must have for our enemies cannot impinge on our ability to win a war. Rav Sherlow says that the first clause of the IDF's Code of Ethics should state that it is a moral obligation for the Israeli army to win. “the Israeli secular Supreme Court's rulings requiring Israel to respect international law to fight terrorism is immoral. What the Israeli Supreme Court argues is moral might very well be immoral. Israel is clearly within its rights to defend itself and enjoys the ethical obligation to wage war successfully”.<sup>21</sup>

Cited from Rav Bleich: “there is no Halachic source that takes cognizance of the likelihood of causing civilian casualties in the course of hostilities legitimately undertaken”. Collectively the rabbis maintain that there exists no classic Halachic source requiring or even permitting risking Israeli soldiers to save Arab civilian lives.<sup>22</sup>

Ruling from Rabbi Dov Lior: In 2008 Rav Lior issued a ruling that killing civilians during warfare are permitted if it will save [Jewish] lives. “The law of our Torah is to have mercy on our soldiers and to save them. This is the real moral behind Israel’s Torah and we must not feel guilty due to foreign morals”. In a 1973 a booklet published by the IDF Central Regional Command Rabbi Lior said “When our forces come across civilians during a war or in hot pursuit or in a raid, so long as there is no certainty that those civilians are incapable of harming our forces according to Halacah they may and even should be killed.”<sup>23</sup>

### **Implications for Divine Command / Natural Law Theory**

#### **Kants Categorical Imperative**

##### *Divine Command Theory as Source of Moral Direction*

James Rachels believes that it is not unusual for members of the clergy to be treated and trusted as moral experts possessing special moral insight. It is commonly accepted that morality and religion are inseparable and that clerical guidance will let us know what God commands. To be morally right therefore is to do what God commands and to be morally wrong is to do that which has been forbidden by God.



As long as the army rabbinate maintains a strong influential presence, officers and soldiers who continue to come from the Orthodox settlement communities they will rely on religious imperatives, as interpreted by their rabbis, to set their moral compass.<sup>24</sup> As interpreters of God's will, the rabbis will make the ethical and moral judgments for the soldier. It will not be a personal choice for these young men. Whether something is right or wrong is now an "objective" value judgment for them, because God is making the decision. They will be conditioned to accept military orders in the context that "it is right if God commands it and wrong if God forbids it".

Most of the soldiers who took part in the assault on Gaza are youth with strong moral sense. However in Gaza when they were face to face with Palestinians who were demonized by religious rhetoric as "Philistines" their moral compass moved 180 degrees. In Gaza they were able to kill and engage in wanton destruction without deliberating or wrestling with their consciences, not even telling friends or family what they did. Will the religious justification prevail?<sup>25</sup>

#### Natural Law Theory /Laws of Nature –Moral Reasoning

On second thought Divine Command Theory may not be sustained throughout the IDF. We have recently been made aware that during Operation Cast Shield there were those soldiers on the ground who questioned the moral and ethical conduct of the operation as it was unfolding. Through an organization Breaking the Silence there is now testimony from many veterans from Gaza who have come forth to denounce the IDF's breach and total disregard to comply with its 1992 IDF Code of Conduct. Hundreds of IDF soldiers

who fought on the ground in Gaza have made a moral and ethical judgments based on their personal reasoning as to what was right thing to do vis a vis the civilian population and what they did not do which resulted in human rights violations and a breach in international norms of conduct in time of war. Is natural theory playing a part in the guilt they now feel and why they are speaking out? <sup>26</sup>

In natural law theory moral rules are viewed as deriving from the laws of nature or natural law. Some behavior (human conduct) is said to be natural while other types of behavior are unnatural. Unnatural behavior /conduct are said to be morally wrong. The natural laws that specify what we should do are “laws of reason” which we are able to grasp because God has made us rational beings with the power to understand that order. St Thomas Aquinas – “God has given the believer and non believer the powers of reason so both may follow their own directives. This leaves morality independent of religion”.

Kant: Rational beings have value moral worth. They must be treated always as an end (in and of themselves) and never as a means We may never manipulate people or use people to achieve our purposes no matter how good those purposes may be”. No matter how just the Rabbis may feel no matter the justifications from the scripture do not use the IDF to secure a greater Israel because the says the land is ours.

### Categorical Imperative / Kant

Rational individuals know what they ought to do vis a vis non-combatants and civilians, their action is that they ought to protect innocent lives and not bomb them in their homes, use them as human shields, shoot them when they pose no threat, delay their evacuation for medical assistance, use prohibited ordnance against them, give them no means of escape. Act only if you want your actions at the same time to be universal law. That your actions are based on a rule that you would want people to follow at all times. The 'ought' that rational and moral individuals should do should be self evident.

Rachels: "Morality requires that we balance our own interests against the interests of others. Our natural duty is to people who could be helped or harmed by our actions". St. Thomas Aquinas: a rational being ought to intuitively know what is right and as such will make the best moral judgments.

### **Final Comments**

The justification for not placing soldiers at risk to reduce civilian casualties finds credence in contemporary Orthodox Judaism. Rabbinical discussion about the conduct of war however; lacks firm contact with the political reality of the global environment in the 21<sup>st</sup> century. For Orthodox rabbis from the settlements discussions and opinions on modern warfare, in this case low intensity conflict and intermittent acts of terrorism by Palestinians in the West Bank and the Gaza Strip, are looking for justification that was the norm in the Old Testament to protect the land. Their views are based on the biblical reconstruction of wars between Jews and non Jewish tribes in ancient times. The

responsibility to comply with international law, modern human rights doctrine, befitting a modern democratic Israel is anathema to their belief in biblical imperative. There are many Rabbis in contemporary Judaism that read the traditional texts in close conformity with modern human rights doctrine and international law, but certain Orthodox extremists, fundamentalists, if you will, in Israel demand total war devoid of responsibility for the non-combatants in close proximity to their enemies. In a just war they insist that God demands that they have a moral responsibility to protect the lives of Israeli soldiers first at the expense of the innocent and to otherwise is immoral. Natural Law and the Categorical Imperative are the moral theoretical concepts that one hopes will prevail.<sup>27</sup>

Yehuda Shaul a former soldier and co-founder of Breaking the Silence has provided a recording by one soldier that says that during preparations for the Gaza assault a rabbi brought in by the army gave him and his comrades spiritual guidance that to him sounded like license to kill Palestinians indiscriminately. He said the rabbi told him and his comrades that the battle in Gaza was the battle of “the sons of light against the sons of darkness, of total good against evil”<sup>28</sup>

Kant has advice for those Rabbis who would manipulate young soldiers in the name of God. “act so that you treat humanity either in your own person or in that of another, always as an end, never as a means. Treating them as ends in themselves means respecting their rationality. Thus we may never manipulate people, or use people to achieve our purposes no matter how good those purposes may be. We do not have the



right to violate their integrity by trying to manipulate their personalities” Kant believes that treating someone as a end in himself means treating him as a rational being. A rational being is someone who is capable to “reason out” his moral conduct and who freely decides what he will do on the basis of his own conception of what is best. Moral judgments are therefore dictates of reason.

In Kant’s view there is a deep logical reason for responding to other people in kind. When we decide what to do we in effect proclaim our wish that our conduct be made into universal law. When a rational being decides to treat people in a certain way he decrees that in his judgment “this is the way people are to be treated”. (pg 131& 139)

Scriptures and Jewish law (Halacha) are regarded by Orthodox Jews as authoritative in determining the moral positions one must take. Rabbis maintain distinctively religious positions on major moral issues that believers are bound to accept? If so are those positions different from the views that soldiers, commanders might reach simply by trying to reason the moral and ethical thing to do?

Rabbis may be guilty of making up their minds about the moral issues and then interpreting the Torah Talmud and Halacha in such a way so as to support the moral and ethical conclusions they have already reached. Will these motives come to light and be rejected by soldiers and commanders in the field? <sup>29</sup>



Morality is a matter of reason and conscience not religious faith. In any case religious considerations do not provide definitive solutions to most of the specific moral problems that confront the IDF vis a vis protection of civilians. Rachels: "the relationship between morality and religion is complicated but it is a relationship between two different subjects".

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## NOTES

<sup>1</sup> . <http://www.btselem.org> B'tselem -The Israeli Information Center for Human Rights in the Occupied Territories. Shooting and Crying Amos Harel Tue, March 31 2009 Haaretz  
Chief of the General Staff Lt. Gen. Gabi Ashkenazi gave orders in advance to use massive fire power. The high number of people killed and injured during the operation, particularly the number of civilians killed in a single attack questions whether the military respected the principle of proportionality.

<sup>2</sup> Ibid.

<sup>3</sup> Attacks aimed at civilians are absolutely prohibited especially in densely populated urban environments similar to the Gaza Strip. The international community recognizes that Hamas has committed and continues to commit grave breaches of international humanitarian law. Hamas militants have fired rockets at Jewish civilians in southern Israel, shot at Israeli soldiers from inside civilian neighborhoods, stored weapons in civilian structures; executed Palestinians suspected of collaborating with Israel and used ambulances to move from one hiding place to another, sometimes hiding inside hospitals forcing civilians to serve as human shields.

<sup>4</sup> It is alleged that many soldiers and officers now serving in the IDF are more religiously observant Jews and that they followed the dictates of their rabbi chaplains, assigned to their units who justified total war against the Palestinian population in Gaza

<sup>5</sup> International Conventions for the Protection of Victims of War, held in Geneva 21 April -12 August, 1949, Articles 3, 13, 15, 16, 20  
Israel has been accused by UN Human Rights Council, the Red Cross, and Amnesty International of violations of international humanitarian law as defined in the Geneva Conventions.  
[http://en.wikipedia.org/wiki/Operation\\_Cast\\_Lead](http://en.wikipedia.org/wiki/Operation_Cast_Lead)

<sup>6</sup>B'Tselem- The Israeli Information Center for Human Rights in the Occupied Territories  
Guidelines for Israel's Investigation Into Operation Cast Lead  
December 27, 2008 - January 18, 2009  
<http://www.btselem.org>

<sup>7</sup> Ibid.

<sup>8</sup> Ibid

<sup>9</sup>Ibid

<sup>10</sup> Ibid.

<sup>11</sup> Ibid

<sup>12</sup> Ibid

<sup>13</sup> [http://en.wikipedia.org/wiki/Israel\\_Defense\\_Forces](http://en.wikipedia.org/wiki/Israel_Defense_Forces)  
[http://www.jewishvirtuallibrary.org/jsource/Society\\_&\\_Culture/IDF\\_ethics.html](http://www.jewishvirtuallibrary.org/jsource/Society_&_Culture/IDF_ethics.html)

<sup>14</sup> [www.idf.il](http://www.idf.il)

<sup>15</sup> Amos Harel, "IDF Rabbinate Publication During Gaza War", Haaretez, 26, January 2009.  
Ben Lynfield, "Army Rabbi Gave Out Hate Leaflet to Troops", The Independent in Jerusalem 27, January 2009.

<http://forum.atimes.com/post.asp?method=Topic>

<http://www.independent.co.uk:80/news/world/middle-east/army-rabbi-gave-oe-leaflet-to-troops-1516805.html>

<sup>16</sup> Ben Lynfield, "Army Rabbi Gave Out Hate Leaflet to Troops", The Independent in Jerusalem 27, January 2009.

<http://www.independent.co.uk:80/news/world/middle-east/army-rabbi-gave-oe-leaflet-to-troops-1516805.html>

Jonathon Cook, "Religious Groups Rising Through the Ranks", Counterpunch 04, February 2009

<http://www.counterpunch.org/cook02042009.html>

The booklet was approved by the Israeli army's chief rabbi Brig. Gen. Avichai Ronsky. Ronsky was appointed to run the army's chaplain rabbinate.

<sup>17</sup> Rabbi Chaim Jachter, "Rabbi Jachter's Halacha Files Halachic Perspectives on Civilian Casualties", Rabbi Jachter's Halacha Files, Vol. 17 No. 18,12, January 2008

[http://koltorah.org/ravj/Halachic\\_Perspectives\\_on\\_Civilian\\_Casualties\\_3.html](http://koltorah.org/ravj/Halachic_Perspectives_on_Civilian_Casualties_3.html)

<sup>18</sup> Ibid

Rabbi Dov Lior is chairman of the Yesha council of rabbis, the settler's chief religious body in the West Bank. Rabbi Lior has not been criticized by other non-settler rabbis in Israel. Lior has been a consistent defender of violent acts against Palestinians.

<sup>19</sup> On the question of avoiding civilian casualties in the course of war, the Rabbis value and refer to the opinion of Rabbi Judah Loew ben Bezalel 1520 -1609, a Talmudic scholar, Jewish mystic and philosopher who served as the leading rabbi in Prague. He is known in Judaism as the Maharal of Prague.

<sup>20</sup> Mathew Wagner, "U.S. Rabbis Urge Change in IDF War Code" Jerusalem Post, 21 August 2006.

In August 2006 the Rabbinical Council of America urged a change in IDF war code. It called on Israel to reevaluate its military rules of war in light of Hizbullah's "unconscionable use of civilians, hospitals, ambulances, mosques and the like as human shields. Our traditional sensibilities tell us that it is not right to risk the lives of our soldiers to minimize civilian deaths on the other side".

<sup>21</sup> Public Committee Against Torture vs. State of Israel High Court Justice # 5100/94

<sup>22</sup> Rabbi Chaim Jachter, "Rabbi Jachter's Halacha Files Halachic Perspectives on Civilian Casualties", Rabbi Jachter's Halacha Files, Vol. 17 No. 18,12, January 2008

[http://koltorah.org/ravj/Halachic\\_Perspectives\\_on\\_Civilian\\_Casualties\\_3.html](http://koltorah.org/ravj/Halachic_Perspectives_on_Civilian_Casualties_3.html)

<sup>23</sup> Breaking the Silence is an organization of Israeli ex-soldiers who have accused Orthodox rabbis in the army of encouraging Israeli soldiers to disregard international laws of war aimed at protecting civilians

<http://www.jewishblogging.com/blog.php?bid=179006>

<http://thephilistine.org/2008/03/20/rabbi-lior-says>

<sup>24</sup> The rural cooperatives known as kibbutzim that were once home to Israel's secular middle class and produced the bulk of its officer corps has been dwindling since 1980's. The vacuum created is being filled by the religious young from the settlements. More than 1/3 of Israel's combat soldiers are Orthodox (religious nationalists as opposed to the highly religious Ultra Orthodox Heradim, who do not serve in the military) as well as 40% of those graduating from officer candidate courses.

<sup>25</sup> Gideon Levy, "IDF Ceased Long Ago Being Most Moral Army in the World", Haaretz 22, March 2009.

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<sup>26</sup> Breaking the Silence <http://www.jewishblogging.com/blog.php?bid=179006>

<sup>27</sup> *International Review of the Red Cross*  
Volume 87 Number 858 June 2005 pg. 295-309

<sup>28</sup> <http://wonderlandwire.worldpress.com/2009/04/israeli-soldiers-speak-about-wrongdoing-in-gaza>

<sup>29</sup> In a study conducted by the Social Sciences Department of Bar Elon University, more than 90% of those who identify as religious believe that if state laws and government orders are incongruous with the content of religious opinions issued by rabbis, they must overlook the former and act in accordance with the latter.

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