

International Law and Military Operations in Practice

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At one time I was in charge of intelligence for the Israel Defense Forces Northern Command. We had laid an explosive charge underneath the car of a very senior official in Hizbullah near the Nabatiya region and we had to decide when to detonate that explosive. We followed him with a UAV and at one point it became apparent that he did not get into the car on his own, but with two other members of Hizbullah and a child. We had to make a decision and a discussion evolved – not once was the term “international law” mentioned. We only asked ourselves whether it was moral to kill a senior Hizbullah member, one we had been trying to reach for a very long time, for which many people had risked their lives, and here we were perhaps forgoing this one rare opportunity. On the other hand, there was a child there of about seven or eight. We asked ourselves not whether international law applied in such an instance but rather whether an attack would have been moral. The decision that we took was not to push the button and the individual emerged unharmed. We did return to him later on and he had to pay the bill, but on that day a very clear decision was made and no issue of international law was taken into consideration, only the moral aspect.

The issue was very clear here. I am not certain that international law is sharp enough when one addresses the minute problems of the way war should be managed, mainly vis-à-vis organizations which are not precisely military organizations. This person lived in Nabatiya and in a totally civilian home with his family and he traveled in a civilian car. He had his personal weapon but he was dressed like a civilian. In terms of international law he was a civilian. He was not shooting at us, but was planning it in advance for a week later and he sent other people to kill Israeli civilians and military personnel. So where does he stand in terms of international law? The questions we raised then were

moral, not legal, questions, and I am not that certain whether that is not the right way in the long run, even though you cannot ignore international law. We are a country that wishes to be a part of the United Nations, of the family of nations that regards itself and is regarded as one committed to international law. It applies in relation to so many topics that we have to address – when it comes to the involvement of civilians, collateral damage, the way we handle civilians themselves – and these issues are far from easy.

In this respect we have here today a history of the understanding that evolved in the IDF and the organization which deals with these issues – the Advocate General of the IDF – and we have a great opportunity to hear from one of the outstanding officers of the British Army with a great deal of experience because the British military in recent years has been fighting similar wars. They have fought in Iraq and Afghanistan, but they came to these wars with previous experience. Perhaps this is one of the military organizations which has the most experience fighting non-military or military organizations, that beat the insurgency in Aden, and helped win the guerilla war in Greece. They fought in Malaya and they defeated Palestinian terror in the 1930s.

All those who say that it doesn't matter as long as we kill them are wrong. The way we do that is important. Sometimes the victory on the battlefield can be detrimental if it is turned into a tool in the hands of those opposed to the State of Israel in the international community. We have to do these things with a great deal of thought and without ignoring the conventions of the world. Very often these conventions are not compatible with the problems that we are facing today here in Israel, as well as problems the British are facing in Afghanistan.