**Redrawing the laws**

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Most people probably don’t know this but Wikipedia has a page called “List of Israeli assassinations”. It begins in July 1956 and stretches over 68 years until today. The majority on the list are Palestinians; among them are famous Palestinian leaders PFLP’s Ghassan Kanafani, Fatah’s Khalil Ibrahim al-Wazir – also known as Abu Jihad, Hamas’s Sheikh Ahmed Yassin, and Islamic Jihad’s Fathi Shaqaqi.

When looking at the long list, it is impossible not to notice that the number of assassinations and assassination attempts Israel has carried out over the years has increased exponentially: from 14 in the 1970s to well over 150 in the first decade of the new millennium and 24 since January 2020.

I was reminded of this list when Prime Minister Benjamin Netanyahu called a news conference on July 13 to celebrate Israel’s attempt to kill Hamas’s military commander Muhammad Deif in Gaza. Israeli fighter jets and drones had just hammered al-Mawasi camp, which now houses an estimated 80,000 displaced Palestinians living in densely populated tents.

Within just a few minutes of the fusillade, the pilots had massacred at least 90 Palestinians, including scores of women and children, while injuring an additional 300 people. All of this occurred in an area Israel had previously designated a “safe zone”. As gruesome images of dead bodies charred and shred to pieces filled social media, reports surfaced that Israel had used several US-made guided half-tonne bombs.

In his news conference at the Ministry of Defence headquarters in Tel Aviv just a few hours after this bloodbath, Netanyahu admitted that he was “not absolutely certain” that Deif had been killed but maintained that “just the attempt to assassinate Hamas commanders delivers a message to the world, a message that Hamas’s days are numbered.”

Yet even a quick perusal of the “List of Israeli assassinations” makes clear that Netanyahu was speaking with a forked tongue. He knows all too well that Israel’s assassination of Hamas’s political leaders Sheik Yassin and Abdel Aziz al-Rantisi or military leaders Yahya Ayyash and Salah Shehade have done very little to weaken the movement and may well have increased its following.

If anything, years and years of Israeli assassinations demonstrate that they are primarily used by Israeli leaders to pander to and rally their constituencies. Netanyahu’s recent news conference is no exception.

But as macabre as the Wikipedia List is, the names on it only tell a partial story. That is because it fails to include the number of civilians killed during each and every successful and failed assassination attempt.

For example, the July 13 strike was the eighth known attempt on Deif’s life, and it is difficult to calculate the total number of civilians Israel has killed in its scramble to assassinate him. The Wikipedia List fails to capture how the increase in assassinations has led to an exponential increase in civilian deaths.

This becomes clear when we compare Israel’s current assassination policy with its policy during the second Palestinian Intifada. When Israel assassinated the head of Hamas’ Al-Qassam Brigades, Salah Shehade, in 2002, 15 people were killed, including Shehade, his wife, 15-year-old daughter, and eight other children.

After the strike, there was a public uproar in Israel at the loss of civilian lives, with 27 Israeli pilots signing a letter refusing to fly assassination sorties over Gaza. Almost a decade later, an Israeli commission of inquiry found that due to an “intelligence gathering failure” commanders had not known that there were civilians present in the adjacent buildings at the time, and had they known they would have called off the attack.

The commission’s findings are in line with the laws of armed conflict, which allow, or at least tolerate, the killing of civilians not directly participating in hostilities so long as these killings are not “excessive” in relation to the “concrete and direct” military advantage that the belligerent expects to gain from the attack.

This rule, known as the principle of proportionality, is designed to ensure that the ends of a military operation justify the means by weighing the anticipated military advantage against the expected civilian harm.

Today, however, we are light years away from the commission’s conclusions both with respect to the repertoires of violence Israel has adopted and the legal justifications it now provides.

First, Israel’s forms of warmaking have changed dramatically since 2002. According to the Israeli organisation Breaking the Silence, which is made up of military veterans, two doctrines have guided the Israeli assaults on Gaza since 2008. The first is the “no casualties doctrine”, which stipulates that, for the sake of protecting Israeli soldiers, Palestinian civilians can be killed with impunity; the second doctrine recommends intentionally attacking civilian sites in order to deter Hamas.

These doctrines have unsurprisingly led to mass-casualty attacks, which, according to the laws of armed conflict, constitute war crimes and crimes against humanity. As a consequence, Israel’s military lawyers have had to modify the way they interpret the laws of armed conflict so that they align with the new warfare strategies.

If two decades ago killing 14 civilians when assassinating a Hamas leader was considered disproportionate and thus a war crime by the Israeli commission of inquiry, in the first weeks after October 7, the military decided that for every junior Hamas operative it was permissible to kill up to 15 or 20 civilians. If the target was a senior Hamas official, the military “authorised the killing of more than 100 civilians in the assassination of a single commander.”

This might seem egregious, but an officer at the International Law Department in the Israeli was very candid about such changes in a 2009 interview for Haaretz: “Our goal of military is not to fetter the army, but to give it the tools to win in a lawful manner.”

Excerpted: ‘Israel Seeks to Redraw the Laws of War’.

Courtesy: Counterpunch.org