

# Halachic Perspectives on Civilian Casualties

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As a matter of policy, the IDF only targets enemy combatants and prohibits aiming at enemy non-combatants. Some sources indicate that this was already the pathway of our Avot. The Torah states that Avraham was fearful before going to war to redeem Lot from captivity. One *midrash* asserts that he feared killing righteous people amongst the enemy population, only to be reassured by G-d that in this specific case all of his victims would be guilty (*Bereishit Rabbah* 44:4). A similar *midrash* asserts that Ya'akov was distressed by the prospect of killing the 400 men accompanying his vengeful brother Eisav, even though it was self-defense (Rashi, *Bereishit* 32:8). While violence is justifiable in such circumstances, Rabbi Eliyahu Mizrahi speculates that Ya'akov feared killing those who could be neutralized with non-lethal means. Alternatively, the Maharal suggests that Ya'akov was concerned about killing coerced combatants who did not truly intend to fight. These homiletic comments are not clear legal statements but reflect a general ethos of seeking to minimize casualties.

More bona fide *halachic* support might stem from the Biblical commandment to leave the fourth side of a besieged city open to allow civilians to escape. Ramban asserted that this provision teaches us to act with mercy towards our enemies, even during war time. Together, these passages might indicate that Jewish law demands attempting to minimize civilian harm during warfare. Indeed, while the Torah tells us to put “all men to the sword” (*Devarim* 20:13) in war, Rav Sa'adia Gaon, Netziv, and Rabbi David Tzvi Hoffman explicitly assert that this means to kill combatants. Non-combatants are not our targets.

Following the rape of Dina, Shimon and Levi wiped out the city of Shechem. Many commentators assert that the citizens were themselves guilty of misdeeds related to Dina's rape and therefore worthy of death. The Maharal, however, says the brothers justified their actions by asserting that in war, the entire nation is treated

as a collective, combatants and non-combatants alike. Yet as Rabbi Ya'akov Ariel has noted, this comment may only justify why the brothers were not punished for killing civilians amongst the combatants. Tragically, civilians are inevitably harmed in war. Maharal does not justify, however, directly targeting non-combatants. Indeed, as Rabbi Asher Weiss notes, Maharal himself argues that Ya'akov feared he would be punished for killing Eisav's reluctant warriors, even though they would certainly be more culpable than non-combatant bystanders.

In any case, any precedent from Shimon and Levi was rejected by Rabbi Shlomo Goren, who argued that the end of the Biblical narrative – in which Ya'akov censures his sons while on his deathbed – proves that the brothers acted wrongly. As he writes, “We are commanded... even in times of war... not to harm the non-combatant population, and certainly one is not allowed to harm women and children who do not participate.” Similarly, Rabbi Aharon Lichtenstein asserted that strategists should consider expected enemy collateral damage before making decisions. Moral constraints remain relevant in wartime.

One difficult ethical question relates to defining who is a non-combatant. Following an IDF raid in Kibiya in 1953 that resulted in the deaths of women and children, Rabbi Shaul Yisraeli initially suggested that a civilian who actively encourages or supports terror activity may be deemed a “pursuer” (*rodef*) who may be killed. This would be especially true if they were given an opportunity to flee, as King Shaul provided for the Kenites (*Shmuel* I 15). Rabbi Yisraeli tempered this novel and far-reaching conclusion by noting that much civilian support for terrorists stems from social pressure and compulsion; as such, one cannot apply the *rodef* classification to them. This entire line of thinking was rejected by Rabbi Hayyim David Halevi, who contended that the *rodef* classification could not be applied to anyone who was not actively involved in attacking someone.

In any case, Rabbi Yisraeli asserted that Jewish law recognizes international norms of warfare, provided that they are universally adopted and practiced. Accordingly, Geneva Convention protocols adopted by Israel would be binding, including the general requirements to only aim at military targets and to measure the proportionality and necessity of strikes that might cause unintended harm to non-belligerents. Such criteria, of course, lend themselves to broad interpretation. Moreover, as Rabbis Ido Rechnitz and Elazar Goldschmidt have argued, soldiers must not excessively endanger themselves to prevent non-combatant collateral damage, particularly when battling in asymmetric battles in which terrorists use non-combatants as human shields. Jewish law desires to minimize civilian casualties yet recognizes that when push comes to shove, priority must be given to one's own soldiers. The successful balance of these values is a *kiddush Hashem* as we try to uproot evil while remembering that all humans were created in G-d's image.



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