

Explainer

Did the Nuseirat hostage rescue operation comply with international law?

While Israel has celebrated the rescue of four hostages, critics argue the large number of Palestinian casualties means op may have have violated laws of war; not so, say others

By Jeremy Sharon / June 12, 2024

The dramatic and audacious operation conducted on Saturday to rescue four Israeli hostages from the clutches of Hamas was lauded and celebrated across Israel, providing a rare moment of hope and good news for the country following eight months of grinding war and often depressing military campaign.

[...]

Dr. Tammy Caner, a researcher at the Institute for National Security Studies at Tel Aviv University, said that the key principle at play in evaluating the legality of military operations is that of proportionality.

Additional Protocol I of the Geneva Convention states that an attack which may be expected to cause civilian casualties and damage “which would be excessive in relation to the concrete and direct military advantage anticipated” is illegal.

In other words, if a military commander anticipates that the number of civilian casualties or injuries from an operation targeting a lawful military target would be disproportionate to the military advantage to be gained from the attack, that attack would be illegal.

But the equation of what might be considered “excessive” civilian casualties can vary, depending on the value of the target.

“Rescuing the hostages did not just constitute a significant ‘military advantage’ but [the operation] achieved one of the war’s overarching goals — the release of the four hostages,” argued Caner.

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