

Identifying Initiators in the Conflict Involving Hamas and Israel, and Other Matters

1. Our general point is that, almost without exception, Hamas' acts (which Australia has decided to view as examples of Hamas' terrorism) occur as acts of resistance and self-defence arising from Israeli acts of violence against Palestinians in Israel, the West Bank or Gaza.¹
2. We begin with the examples given in the Statement of Reasons of the Minister for Home Affairs (Attachment C): It's not practical to discuss every one of them, but to comment on some:
 - The example from 21 November 2021, includes the acknowledgement that this small arms attack by a single person in the Old City of Jerusalem – which this example fails to mention is occupied Palestinian land – ‘was the price for Israel's actions in Jerusalem’. This is thus an example of a reprisal for prior actions by Israel against Palestinians.
 - The example from 10-21 May 2021, fails completely to put Hamas' rocket attacks in context. Here's what actually occurred – once again precipitated by Israeli actions: These events were triggered on 6 May when Palestinians began protests in occupied East Jerusalem over an anticipated decision of Israel's Supreme Court to evict six Palestinian families from their (long-lived-in) homes in East Jerusalem's Sheikh Jarrah district. This led to a series of actions and reactions (including the storming of the al-Aqsa Mosque by Israeli police who used tear gas, rubber bullets and stun grenades against stone-throwing Palestinian youths). On 10 May, Hamas warned that unless Israel withdrew its security forces from Sheikh Jarrah and the Mosque by 6 pm, it would react strongly, which it subsequently did by launching rockets (ultimately more than 4,300) from Gaza, some of which hit residences and a school, though around 90 percent were intercepted by Israel's Iron Dome system. Israel then began a sustained campaign of almost 1,000 airstrikes against Gaza. The overall effect in Gaza by the time the violence ended was that 18 buildings including four high-rise towers, 40 schools, nearly 20 medical facilities and four hospitals, as well as the offices of the Associated Press and the al-Jazeera Media Network, were wholly or partly demolished by Israeli bombardment and the al-Shati refugee camp was also hit. The ultimate human casualties were reported to be: 256 Palestinians (including 66 children) killed, over 1,900 injured and at least 72,000 displaced; and 13 Israelis (including 2 children) killed and over 200 injured.
 - The other examples in the Minister's statement address activities by Hamas and/or the Brigades which demonstrate no more than (in the context of Israel's likely future violence of the kind described above) preparatory training (such as firing rockets into the sea) in anticipation of a repeat of Israel violence. As to the listed actions of Palestinian teenagers, that referring to Sheikh Jarrah should be considered in the light of the above description about the Sheikh Jarrah-triggered, Israeli-initiated events of May 2021, where, sadly, Israeli settlers continue today to assert their (internationally illegal) ‘ownership’. In addition, the reference to the 17 November 2021 stabbing of two border police in East Jerusalem fails to mention that East Jerusalem is Palestinian land and that the teenager was killed, despite the police being only slightly injured –an over-reaction that's typical of Israelis' treatment of Palestinian behaviour. The Minister's statement instead focuses on Hamas' reaction to the stabbing and assumes – without any direct evidence – that it was designed to encourage similar acts by other young Palestinians.

Israel's violent reaction to Hamas' efforts to avoid conflict

3. In 2014, Hamas and Fatah announced they had agreed to form a ‘unity government’ for Palestine, comprising ‘technocrats’, in a second attempt to end the isolation and strangulation of Gaza – an earlier attempt having been strongly opposed as illegitimate by Israel, the US and the EU. As noted in the

¹ The Palestine Israel Ecumenical Network (PIEN) supports human rights and non-violence. As such, it is against the use of violence and the abuse of human rights by all actors in Palestine and Israel and applauds the International Criminal Court's intention to investigate possible war crimes and crimes against humanity arising from elements of the Palestine-Israel conflict, particularly in or related to Gaza. In the context, however, of the central issue in this Attachment (that Hamas' resistance, which can include forms of violence such as the launching of rockets towards Israel that may harm civilians, is almost always the direct result of the prior violence and terrorism of Israel), PIEN wishes to record that while it certainly regrets the violence of both, it does understand Hamas' right of self-defence and resistance in such circumstances.

international media at the time, this new unity government agreed it would ‘adhere to the conditions of the Middle East Quartet (the EU, the UN, Russia and the US), recognise Israel, ratify all signed agreements and renounce violence.’

4. As such, it was welcomed by both the US and the EU; and Israel no longer had ‘Palestinian disunity’ as an excuse for refusing to engage in peace talks. Nor did they have ‘terrorism’ as an excuse, as Hamas had steadfastly stood by the terms of a 2012 ceasefire, not only ceasing their own rocket fire, but also successfully preventing rocket attacks by other Palestinian groups in Gaza, such as Islamic Jihad.

5. Hamas maintained this position despite continuous violations of the ceasefire by Israel – from a refusal to lift the blockade (as required by the ceasefire terms), to continued attacks on Palestinians, killing four and maiming nearly 100 within the first three months of the ‘ceasefire’ alone. Even after Israeli attacks were further stepped up, with other Palestinian children shot dead by Israeli forces between December 2013 and May 2014, including a 15 year old shot in the back from 100m, Hamas held its fire.

6. The Israeli Government also responded to the unity government announcement by what is best described as economic warfare. It prevented 43,000 civil servants in Gaza from moving from the Hamas payroll to that of the Ramallah government and it tightened its siege round Gaza’s borders thereby nullifying the main benefits of the merger. Still Hamas held its fire.

7. Israel’s Prime Minister, Netanyahu, then decided he needed some form of provocation against Hamas which would *force* a response that would allow him to paint Hamas, again, as bloodthirsty terrorists with whom one can never negotiate, enable another wave of devastation in Gaza, and exacerbate tensions within the unity government between Fatah and Hamas.

8. So, on 11 June 2014, the IDF made a raid on Gaza in which they killed a 10 year old boy on a bicycle. Still Hamas held its fire. But next day, the apparent kidnapping of three Israeli settlers in the West Bank provided the opportunity for an Israeli provocation on an altogether larger scale, involving an attack on the entire Hamas leadership in the West Bank. According to IDF sources, this involved Israeli soldiers arresting 419 Palestinians, including 335 affiliated with Hamas, killing six Palestinians, searching thousands of locations and confiscating \$350,000. Israel also conducted dozens of attacks in Gaza, killing 5 Hamas members on 7 July.

9. With what had, by then, become intolerable provocation by Israel, Hamas finally reacted with its first rockets in 19 months. This provided Israel with a (self-generated) excuse for *Operation Protective Edge* that summer, which lasted for 50 days between 8 July and 26 August 2014 and claimed the lives of 2,220 Palestinians, including at least 1,492 civilians, according to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA). Five Israeli civilians, including a child, and 67 Israeli soldiers also lost their lives.

- Defence for Children International (Palestine) independently verified the deaths of 535 Palestinian children among those killed in Gaza as a direct result of Israeli attacks, over two thirds of whom were 12 years old or younger.

10. Some western governments (including Australia), accepting Netanyahu’s propaganda, largely endorsed Israel’s assertion about Hamas as ‘rocket-firing terrorists who can never be trusted.’ They announced that Israel has the right to defend itself, regardless of its excessive use of force and the horrifying death toll among the Palestinians.

- During this period, as previously, Australia maintained its listing of Hamas’ Brigades as terrorist organisations under Division 102 of the *Criminal Code*.

The views of some Israeli writers and speakers

Miko Peled and his Father

11. The late General Matti Peled was an Israeli military hero of 1948 and 1967, admired and respected by Israel’s military and political elite. In his later years, he studied Arabic and sought out Palestinian leaders in

attempts at understanding and reconciliation. His son, Miko, has written of his father.² He records that in the mid 1970s his father stated that *'terrorism is a terrible thing, but when a small nation [Palestine] is ruled by a larger power [Israel], terror is the only means at their disposal. This has always been true ... If we want to end terrorism, we must end the occupation and make peace.'* (p 57).

Nurit Peled-Elhanan

12. In 1997, General Peled's daughter Nurit Peled-Elhanan lost her 13 year old daughter Smadar in Jerusalem as the incidental result of a suicide bombing near where she was shopping for schoolbooks. At her funeral, Miko records 'Israelis and Palestinians, family members and friends across the political spectrum, famous leaders and ordinary people, came to give eulogies or express their sorrow at this unspeakable loss.' Among them was Ehud Barak, Israel's most decorated soldier, destined to become Defense Minister and Prime Minister. 'Here he was', writes Miko, 'sitting among us, trying to convince people that in order to really make peace he had to run without making it look like he wanted peace so he wouldn't lose votes for being a peacemaker.' Unhappy with this doublespeak, Miko says he couldn't take it any more and replied 'Why not tell the truth? Why not tell people that this and other similar tragedies are taking place because we are occupying another nation and that in order to save lives the right thing to do is to end the occupation and negotiate a just peace with our Palestinian partners.' He adds that all in his family felt this was true and had known it for years.

13. It's clear that Professor Nurit Peled-Elhanan shares her brother's views, despite the terrible loss of her daughter. She has become a prominent advocate of a just peace between Israelis and Palestinians and she has never hesitated to speak out passionately about the terrible injustices suffered by the Palestinian people at the hands of her Government. In June 2012, she spoke to mark the 45th anniversary of the occupation.³ What follows is a selection of extracts from that address:

- 'I dedicate my words this evening to [among others] the [Palestinian] hunger-striker Mahmoud Sarsak, who has been striking for 83 days. An excellent football player from Gaza, he was arrested three years ago under the Law against Illegal Combatants, which permits him to be imprisoned for life, without a trial and without charge.
- 'Those prisoners, and thousands more like them, including more than twenty Members of [the Palestinian] Parliament including the Chairman of the Parliament, Dr. Aziz Dweik, are being held without justice or trial, under humiliating conditions, for years, without visits or hope. They are the freedom fighters of this country who remind us again and again that we all live under occupation and that only their liberation will restore our freedom to us.
- 'We [Israelis] are all subjects of a colonialist regime that includes the appropriation of lands and water resources, ethnic cleansing, destruction of the landscape and destruction of the human spirit.
- 'This year the apartheid regime of the State of the Jews proved its complete loyalty to racism and the principles of racism. Twenty-five racist bills were submitted, and more than ten racist laws have been passed this year, and hardly any Jewish citizens went out onto the streets.
- 'More than three hundred people imprisoned without trial launched a hunger strike to the death for two months and more, and hardly any Jewish citizens went onto the streets.
- 'Thousands of children are not going to school in East Jerusalem because the Jewish ministry of education does not allocate classes or because the racist Citizenship Law makes them the citizens of no-place, and no one is going onto the streets.
- 'The separation of families, the expulsion of residents, the confiscation of lands, children abducted from their beds and cruelly interrogated, families evicted from their homes out onto the street, farmers tortured by kippa-wearing bullies under the protection of the army and on the orders of the Government, and hardly anyone goes out onto the streets.
- 'That is the peak achievement of the Zionist movement.

² *The General's Son*, Miko Peled, Just World Books (2012)

³ Occupation Magazine, 9 June 2012.

- ‘We are all controlled by the racist laws of this place, and voluntarily placed into ghettos. The Zionist ghetto has learned not to see and not to hear anything beyond the walls that surround it: the real walls made of concrete, and the imaginary walls made of obedience, hate and terrible fear. We do not dare protest against the racist laws, we do not dare to defy racist signs, we do not dare to defend tortured children, we do not dare to break the walls of Gaza, and we do not dare go to Hebron and Deheisheh, to Jenin and Ramallah to ask after the neighbours.
- ‘That is the great victory of the Occupation.
- ‘[Our] teachers do not flinch when they are called upon to poison their pupils’ minds with mendacious stories about our historical rights to the neighbours’ lands, about heroism and victory when it was really ethnic cleansing, inspired and planned by the institutions of racism. The entire purpose of Israeli education is to prepare children to be obedient soldiers of the Israel Occupation Force. All that, in order to harden their hearts and to dull their senses so that they can abuse, destroy and kill with a clean conscience.
- ‘We feel the pain of the parents of one captive Jewish soldier and do not let the pain of the parents of thousands of abducted Palestinian children penetrate through to us. We ignore the sufferings of the children of Gaza who are living on the margins of death, victims of malnutrition and lack of medical care, without electricity, without the right to education and livelihood, without a chance and without hope.
- ‘We are living in a ghetto that has no city and no homeland, the language of which is not the local language, a ghetto that has no place to open onto except the bypass roads that pass by everything that is alive. Among us the fear is overt; among us fear is the motivating force behind every action. Fear of refusal to serve in the Occupation army, fear of supporting a justified boycott of the produce of the settlements, fear of visiting the neighbours. Kindergarten children who arrived here from Ethiopia a few months ago already know whom to hate and whom to fear. They are struck with terror and fear of ‘the Arabs’ they have never seen in person.
- ‘We must liberate our children from the walls of fear and teach them the bases of liberty and responsibility and explain to them and to ourselves that a person who obeys restrictions that prevent him from going wherever he wants, even if it is [Palestinian] Hebron or Jenin or Ramallah, is not a free person but a conquered person. A person who invents laws that restrict the ability of their neighbours to get an education and make a living is a repressed person, a person under siege.

Gideon Levy

14. Gideon Levy is a prominent, award-winning Israeli journalist with Israel’s national newspaper *Haaretz*. His articles are frequently highly critical of the occupation and all it entails. From an Australian point of view it is ironic that Levy is able to publish – in Israel – a blunt, accurate exposé of events in Palestine, particularly Gaza, that (as Australian journalist and writer, John Lyons, explains), would almost never be printed in Australia – and if it were, would be criticised by (in Lyons’ words) ‘the Jewish leadership in Melbourne’, which would do all it could to have such articles suppressed.⁴

15. In his book *The Punishment of Gaza*,⁵ Levy tracks the development of Israeli policy affecting Gaza between 2005 and 2009 – a policy which ‘has abandoned the pretence of diplomacy in favour of raw military power, the ultimate aim of which is to deny Palestinians any chance to form an independent state.’

⁴ *Balcony Over Jerusalem*. John Lyons, Harper Collins Publishers (2017). Intrigued by the contrast between the acceptability of published criticism of Israel by Israelis, the IDF and the Israeli media on the one hand, and its non-acceptability and attempted suppression in Australia by representatives of the Australian Jewish leadership on the other hand, Lyons’ conclusion was that whereas committed Israelis in Israel can simply ignore the criticism (and most do) with no fear of any significant change to Israel’s treatment of Palestinians, there is a fear in Australia by leaders of the Jewish, pro-Israel communities that Australians ‘may not have the same commitment ... [and the criticism] ... may damage the view that Australians may have of Israel.’

⁵ *The Punishment of Gaza*, Gideon Levy, Verso (2010). Although written some 12 years ago, it is salutary to note that Australia’s first listing of the Qassam Brigades as terrorists under the *Criminal Code* in November 2003, preceded this book by about seven years and continued until the listing of Hamas in its entirety in March 2022.

16. The book comprises 40 short chapters, each dated, presumably because they were first printed on those dates as separate articles in *Haaretz*. They are eloquent, often horrific accounts of terrible events. It's impossible to capture their totality in this attachment, so we will draw from just a few:

- On 1 June 2006, Levy writes of '*Collateral Damage*', by which the entire family of 28 year old Palestinian Hamdi Aman were hit in their car in the assassination of an Islamic Jihad operative who happened to be driving past. Aman's wife, mother and 7 year old son were killed and his two other young children, an uncle and he himself were badly injured.
- On 2 July 2006, in '*Quiet: We're Shooting*', Levy writes of the 'summer rains' Israel is showering on Gaza. 'It is not legitimate', he says to cut off electricity to 750,000 people, nor to turn the homes of 20,000 Gazans into ghost towns, or to kidnap half of a government and a quarter of a parliament. A state that takes such steps is no longer distinguishable from a terror organisation', he says. 'We [meaning Israel] are not only shooting. We are bombing and shelling, darkening and destroying, imposing a siege and kidnapping like the worst of terrorists, and nobody breaks the silence to ask what the hell for ...'
- On 2 September 2007, in '*A War on Children*', who are being killed and maimed in Gaza by Israel because they are ostensibly involved in the launching of Qassam rockets, Levy refers to the context by saying '[The rockets] are almost always fired after an IDF assassination operation, and there have been many of these. The question of who started it is not a childish question ... The IDF has returned to liquidations, and in a big way. And in their wake there has been an increase in Qassam firings. That is the truth.'
- Towards the end of his book, in '*Child's Play*' (15 January 2009), Levy writes 'A significant majority of the children killed in Gaza did not die because they were used as human shields or because they worked for Hamas. They were killed because the IDF bombed, shelled or fired at them, their families or their apartment buildings. That is why the blood of Gaza's children is on our [Israel's] hands and not on Hamas' hands – and we will never be able to escape that responsibility.'

17. In conclusion, this attachment more than adequately supports the central thesis of the submission it accompanies, showing evidence of Hamas' reactions to the prior violence of Israel, as well as a selection of Israeli writers' accounts of the terrible consequences of Israel's occupation and its wilful disregard for Palestinian rights and freedom.