Israel's actions in Gaza are justified under international law, and Israel should be commended for its self-defense against terrorism. Article 51 of the United Nations Charter reserves to every nation the right to engage in self-defense against armed attacks. The only limitation international law places on a democracy is that its actions must satisfy the principle of proportionality.

Since Israel ended its occupation of Gaza, Hamas has fired thousands of rockets designed to kill civilians into southern Israel. The residents of Sderot – which have borne the brunt of the attacks – have approximately 15 seconds from launch time to run into a shelter. Although deliberately targeting civilians is a war crime, terrorists firing at Sderot are so proud of their actions that they sign their weapons.

When Barack Obama visited Sderot this summer and saw the remnants of these rockets, he reacted by saying that if his two daughters were exposed to rocket attacks in their home, he would do everything in his power to stop such attacks. He understands how the terrorists exploit the morality of democracies.

In a recent incident related to me by the former head of the Israeli air force, Israeli intelligence learned that a family's house in Gaza was being used to manufacture rockets. The Israeli military gave the residents 30 minutes to leave. Instead, the owner called Hamas, which sent mothers carrying babies to the house.

Hamas knew that Israel would never fire at a home with civilians in it. They also knew that if Israeli authorities did not learn there were civilians in the house and fired on it, Hamas would win a public relations victory by displaying the dead. Israel held its fire. The Hamas rockets that were protected by the human shields were then used against Israeli civilians.

These despicable tactics – targeting Israeli civilians while hiding behind Palestinian civilians – can only work against moral democracies that care deeply about minimizing civilian casualties. They never work against amoral nations such as Russia, whose military has few inhibitions against killing civilians among whom enemy combatants are hiding.

The claim that Israel has violated the principle of proportionality – by killing more Hamas terrorists than the number of Israeli civilians killed by Hamas rockets – is absurd. First, there is no legal equivalence between the deliberate killing of innocent civilians and the deliberate killings of Hamas combatants. Under the laws of war, any number of combatants can be killed to prevent the killing of even one innocent civilian.

Second, proportionality is not measured by the number of civilians actually killed, but rather by the risk posed. This is illustrated by what happened on Tuesday, when a Hamas rocket hit a kindergarten in Beer Sheva, though no students were there at the time.
Israel's Policy Is Perfectly 'Proportionate'

By ALAN M. DERSHOWITZ

JANUARY 2, 2009, 1:35 P.M. ET

Hamas are the real war criminals in this conflict.

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Second, proportionality is not measured by the number of civilians actually killed, but rather by the risk posed. This is illustrated by what happened on Tuesday, when a Hamas rocket hit a kindergarten in Beer Sheva, though no students were there at the time. Under international law, Israel is not required to allow Hamas to play Russian roulette with its children's lives.

While Israel installs warning systems and builds shelters, Hamas refuses to do so, precisely because it wants to maximize the number of Palestinian civilians inadvertently killed by Israel's military actions. Hamas knows from experience that even a small number of innocent Palestinian civilians killed inadvertently will result in bitter condemnation of Israel by many in the international community.

Israel understands this as well. It goes to enormous lengths to reduce the number of civilian casualties — even to the point of foregoing legitimate targets that are too close to civilians.

Until the world recognizes that Hamas is committing three war crimes — targeting Israeli civilians, using Palestinian civilians as human shields, and seeking the destruction of a member state of the United Nations — and that Israel is acting in self-defense and out of military necessity, the conflict will continue.

Mr. Dershowitz is a law professor at Harvard. His latest book is "The Case Against Israel's Enemies" (Wiley, 2008).

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