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The Politics of Human Shielding: On the Resignification of Space and the Constitutions of Civilians as Shields in Liberal Wars

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Abstract:

In this paper we use Israel/Palestine as a case study to examine the politics of human shielding, while focusing on the epistemic and political operations through which the deployment of the legal category of human shield legitimizes the use of lethal force. After offering a concise genealogy of human shields in international law, we examine the way Israel used the concept in the 2014 Gaza war by examining a series of infographics spread by the IDF on social media. Exposing the connection between the re-signification of space and the constitution of a civilian as a shield, we maintain that the infographics are part of a broader apparatus of discrimination deployed by Israel to frame its violence post hoc in order to claim that this violence was utilized in accordance with international law. We conclude by arguing that the relatively recent appearance of human shields highlights the manifestation of a contemporary political antinomy: human shields have to continue to be considered protected civilians, but they are considered an integral part of the hostilities, which transforms them into killable subjects.

Key words: Human Shields, Civilian, Urban Warfare, Social Media, Principle of Distinction, International Humanitarian Law, Israel, Palestine.

The Politics of Human Shielding: On the Resignification of Space and the Constitutions of Civilians as Shields in Liberal Wars¹

The meaning of the distinction between legitimate violence and illegitimate violence is not immediately obvious.

Walter Benjamin, Critique of Violence

A shield literally denotes an object of variable dimension and shape, which is used as an instrument of protection. As a basic military concept, the word shield refers to a universal and cross-cultural instrument utilized in different contexts in order to provide defense and preserve the human body from being injured. On the one hand, then, a shield is a protective tool, one that reminds us that human beings, even the most capable and brave, always remain vulnerable subjects who can be injured or killed. On the other hand, since almost every offensive is dependent on some sort of protection, the shield also functions as a necessary instrument of combat, making it easier for its possessor to injure or kill the enemy. The shield, in other words, serves as a physical and conceptual threshold. It epitomizes the dialectic between armed offense and defense within the framework of violence and war.

The issue becomes even more complex—evoking the Benjaminian (1978) question about the meaning of violence—when the adjective *human* is tied to the word shield, forming the phrase human shield. Generally speaking, this phrase refers to those situations in which civilian bodies acquire a protective function in the midst of fighting; willingly or unwillingly these bodies are transformed into a technology of warfare—in the Foucauldian (1988) sense whereby technology can be a form of human action—and, like inanimate shields, they embody a dialectic between offense

¹ The authors appear in alphabetical order and acknowledge equal contribution.

and defense. But in spite of the similarities between inanimate and animate shields, three crucial distinctions need to be stressed in order to understand the specificity of human shielding.

First, unlike the inanimate shield, the human shield is predicated upon a value that is ascribed to a living human being who is defined as a civilian and as such protected according to international humanitarian law (IHL). Put differently, the materiality of the human body does not really lend itself to shielding and therefore if the human was conceived to be a mere inanimate object lacking the value assigned to the human qua civilian it would not be useful as a shield; a human body thus *becomes* a shield by virtue of its definition as a civilian. The central category of civilian in IHL (Kinsella 2011) is, in other words, the condition of possibility of human shielding.

Second, as opposed to the inanimate shield, which is ultimately conceived and produced in order to protect human vulnerability in war, in the case of human shields *vulnerability itself becomes the means of protection*. In other words, the human shield defends a vulnerable body (an animated combatant), an object (an unanimated weapon or military structure), or an area (in some cases a civilian area) that has become part of the military hostilities, but it does so through its own vulnerability. In this sense, the politics of human shielding is fundamentally a politics of vulnerability: a form of politics in which vulnerability occupies a central position in the definition of the relationship between political actors within the battlefield and the meaning of violence.

The third distinction results from the first two and concerns the ethics of shielding. Unlike inanimate shields, the appearance of both voluntary and involuntary human shields in a war zone produces a certain ethical uncertainty or ambiguity in the laws of war (Bargu 2013). When a person in a battlefield is defined as a human

shield—a vulnerable civilian body that willingly or not becomes a technology of warfare whose function is to render a military target immune—he or she loses some of the protections assigned to civilians by IHL and an ethical quandary surfaces relating to the precise legal status of the human shield. Questions concerning the circumstances allowing human shields to be legitimately killed, the way the spaces they occupy are signified, as well as who is responsible for the life and potential death of the human shield, constitute the basic grammar of the ethics of human shielding.

In the following pages we focus on this latter articulation of human shielding, while reflecting on the emergence of the phrase human shields in its contemporary normative and political meaning (Schmitt 2008; Otto 2004; Rubinstein and Roznai 2011). What exactly are human shields? When did the notion of human shielding begin to crystallize in the international political arena? And what is the ethical function of human shields, particularly in relation to the deployment and legitimization of political violence? In order to better understand the *politics of human shielding*—by which we mean the epistemic and political operations through which the deployment of the legal category of human shield legitimizes the use of lethal force, potentially against entire civilian populations and the spaces they inhabit—we examine the 2014 Israeli military operation in Gaza, dubbed by Israel as "Protective Edge."

One of the prominent claims repeated by the Israeli government and military throughout the offensive is that Hamas (the Palestinian Islamist party that rules the Gaza Strip) deliberately used human shields as a warfare technique, and therefore it bears responsibility for the extensive killing of civilians and destruction of civilian buildings and infrastructures carried out by the Israeli army during the military campaign. In his first appearance at the UN General Assembly after Protective Edge,

Prime Minister Benjamin Netanyahu repeated the human shields mantra. Showing his international audience a picture of children playing in the vicinity of a rocket launcher, he averred that “ Hamas deliberately placed its rockets where Palestinian children live and play” (Frederick, 2014).

The constant reiteration of the human shields trope in reference to Gaza demands further inquiry. And although this military campaign presented its own specificities, the way the concept human shield was deployed throughout the fray helps reveal why the accusation of human shielding applies only to certain political actors; why only certain subjects can become human shields while others are excluded; and what is the foundational logic and political implications of these distinctions.

We begin to address these questions with a concise genealogy of human shields in international law, followed by a brief overview of how the discourse of human shields emerged in the context of Israel/Palestine. Next, we examine the way Israel used the concept human shield in the 2014 Gaza war by analyzing a series of infographics spread by the Israel Defense Forces (IDF) on its Twitter account, Facebook and official blog. It is in this context that we discuss the intricately knit connection between the resignification of space and the constitution of a civilian as a shield, showing also that the infographics are merely one element in a broader *apparatus of discrimination* produced by the IDF. After illustrating how the deployment of the phrase human shield helps render legal the deployment of lethal violence against civilians, we conclude by arguing that the relatively recent appearance of human shields highlights the manifestation of a contemporary political antinomy.

A Brief Genealogy of Human Shields

Every critique of violence is primarily a historical and philosophical investigation into the legal and political genealogy of the concepts that provide violence its own rationalization (Benjamin 1978). In IHL, the term civilian is one of the key concepts that determines the legitimacy and illegitimacy of violence (Pilloud and others 1987; Meron 1989; Kinsella 2011). The principle of distinction between combatant and noncombatant formally serves to protect civilian lives (Hannikainen 1988). Different humanitarian conventions stipulate how civilians should be protected in time of war (Sassòli, Bouvier, and Quintin 2011). And yet, as Antony Anghie (2007) and other scholars (Ringmar 2013; Wilke 2014) remind us, civilianhood was historically couched along racial lines until its progressive universalization following World War II.

During colonialism, the status of civilian was recognized only to the citizens of colonial powers. IHL did not protect either indigenous combatants or noncombatants. Therefore, when colonial states killed the colonized they did it without violating international law, since colonial subjects were considered outside its sphere of application (Anghie 2007). But after the process of decolonization the category of combatant and civilian was extended to the ex-colonized, who were then conceived as protected subjects under international law.

The universalization of civilianhood within the post-colonial context has produced new ethical dilemmas for international law regulating warfare. A new tension emerged between, on the one hand, the desire of liberal states to frame their wars and violence within international law (Khalili 2012) and, on the other hand, the wide scale killing of civilians in contemporary wars (Eck and Hultman 2007). This, as

we maintain, is exactly why the concept human shield is becoming increasingly important and why its critique is urgent.

Human shielding refers to the use of persons protected by IHL, such as prisoners of war or civilians, to deter attacks on combatants or military sites. At first glance, the phrase human shield does not seem to rationalize violence, but rather to prohibit an unethical form of warfare and render it illegitimate. Placing civilians on train tracks, in airports or in any site that is considered to be a legitimate military target of the enemy army in order to prevent the latter from striking is illegal according to IHL. Along similar lines, carrying out military operations from within civilian spaces, particularly schools, hospitals, religious sites, civilian neighborhoods and even industrial areas is illegal due to the potential use of human shields.

While human shields have been used throughout history in order to protect both military and non-military targets,² it took the greater part of the 20th century for the legal category of human shielding to crystallize into its contemporary normative meaning. One cannot find explicit reference to human shields in the Hague Conventions, but Article 23 of the 1907 Convention states that “A belligerent is forbidden to compel the nationals of the hostile party to take part in the operations of war directed against their own country.”³ Referring to this article, an official commission of the Belgian government blamed the German forces of using “human

² Contemporary dictionaries almost immediately bestow a military meaning upon the notion of human shield. However, other forms of shielding exist. In different periods human bodies were used as shields also in order to protect different kinds of environmental or natural resources, or to defend goods and properties from dispossession.

³ Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land, Article 23. The Hague, 18 October 1907.

screens” during World War I.⁴ The authors of the 1915 report explain that “If it be not permissible to compel a man to fire on his fellow citizens, neither can he be forced to protect the enemy and to serve as a living screen.” This is how the Belgian governmental commission reconstructed some of the German practices of “human screening”:

In both cases the effect would be to compel him to engage in acts of warfare against his own countrymen, to expose him to danger, and to inflict upon him the most painful moral violence. But certain of the German officers have little regard for such considerations. On the 6th August a number of soldiers were made prisoners by a German column. At Saive a company of Belgians were encountered. The prisoners were immediately placed at the head of the troops, so to cover the column and make it impossible for the Belgians to fire upon them. On the 23rd August the Germans forced women and children to walk in front of the troops ordered to take the bridge at Lives, opposite to Biez. A number of these women and children were wounded (Official Commission of the Belgian Government 1915 p. xviii).

Germany’s occupation of Belgium provoked an intense debate that included European government officials, US representatives, and different intellectuals. In the eyes of many participating in this debate, German warfare in Belgium constituted a moral watershed. Abuses against Belgian civilians and particularly the violation of the principle of distinction between combatants and noncombatants occupied, for

⁴ On the emergence of the accusation of human shielding in WWI see also Isabel Hull 2014, particularly chapter three.

example, a central place in Emile Durkheim's condemnation of "German mentality." In spite of the fact that Germany had previously used many of its WWI warfare techniques in its colonies (including the use of civilians to prevent attacks against its troops), according to Durkheim, WWI and particularly the crimes Germany committed on European soil represented a turning point that marked Germany's exclusion from "the great family of civilized people" (Durkheim 1915 p. 3).⁵

While Belgian case may have been one of the first instances whereby an enemy army was explicitly accused of using human shields by an official commission, during and after World War II human shielding was referred to more frequently. Nazi military commanders frequently transported prisoners in trains carrying ammunition and soldiers in an attempt to shield the trains and tracks from aerial attacks. But this did not stop the Allies, who bombed the trains while knowing that innocent prisoners, transformed by the Germans into human shields, were being killed (Blatman 2011). It is therefore not particularly surprising that in the Fourth Geneva Convention the pertinent article was altered so as to permit military forces to attack targets that are protected by human shields, thus combining the prohibition of using human shields with the legalization of killing them (provided the killing abides by the principle of proportionality). While the term human shield does not actually appear in the document, the Fourth Geneva Convention provides de jure protection to militaries that kill human shields.⁶

⁵ Durkheim (1915, pp. 3-4) ascribed Germany's "contempt of international law" and "savagery" to some "essential elements" of the German "mental and moral system."

⁶ "The presence of a protected person may not be used to render certain points or areas immune from military operations." Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, 1949, Article 28.

The word shield first appears in the 1977 Additional Protocol I to the Convention, only after decolonization. Article 51(7) both prohibits the use of human shields and reiterates that it is legitimate for militaries to attack areas protected by human shields. “The presence or movement of the civilian population or individual civilians shall not be used to render certain points or areas immune from military operations, in particular in attempts to shield military objectives from attacks or to shield, favor or impede military operations. The Parties to the conflict shall not direct the movement of the civilian population or individual civilians in order to attempt to shield military objectives from attacks or to shield military operations.”⁷ More recently, the 1998 Rome Statute of the International Criminal Court characterized human shielding as a war crime.⁸

The introduction of human shields in IHL was, as Banu Bargu (2013) has noted, a reaction to the increasing “weaponization” of human bodies in contemporary warfare. Bargu concentrates on voluntary human shields, arguing that they should be conceived as a new form of agency that aims to protect the weak by achieving deterrence during warfare through the invocation of a certain moral sensibility. We follow this line of argument, but shift the perspective in two important ways. First, we are interested in all forms of human shielding, both voluntary and involuntary, particularly since the latter comprise the vast majority of human shields. Accordingly, agency is not a prominent category in our analysis. Second, we examine the phenomenon by analyzing how the powerful operate, maintaining that the use of the

⁷ Protocol Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of International Armed Conflicts, 1977, Art. 51(7), 1125 *U.N.T.S.* 3.

⁸ Statute of the International Criminal Court, 1998, Art. 8(2)(b)(xxiii), U.N. Doc. A/CONF. 183/9, 37 *I.L.M.* 1002 (1998). Art. 8(2) (b)xiii.

legal phrase human shields should be understood not so much as a protective technology of the weak, but rather *as a necro-technology deployed by the strong—a technology that recasts civilians as legitimate targets of lethal violence.*

Indeed, the significance of human shield clauses in international law cannot be overstated considering that urban settings are rapidly becoming exceptionally prominent battlefields (Gregory 2011). Urban areas, as Stephen Graham put it, "have become the lightning conductors for our planet's political violence," while "warfare strongly shapes quotidian urban life" (Graham 2011 p. 16.). The dramatic increase in urban warfare entails that civilians inevitably occupy the front lines of the fighting. Insofar as this is the case, then practically all fighting within cities involves warfare practices that, according to IHL, can be said to include the use of human shields. It also suggests that human shielding has a very pronounced spatial and architectural dimension.

The Development of the Human Shields Discourse in Israel/Palestine

Civilians have often been at the forefront of violence in Israel/Palestine. One of the first instances of the use of human shields occurred during the 1936-39 Arab revolt in mandatory Palestine, when Palestinians carried out frequent acts of anti-colonial sabotage against British installations, including railway lines and trains. Initially, the lines were patrolled on foot and by reinforcing the train cabs with armor and mounting them with soldiers and machineguns. This did not seem to work, since the "trolleys were derailed and fired at on numerous occasions." The British accordingly equipped the train with a "pony truck," a contraption connected to the front of the train with a long extension whose function was to deflect the explosion of mines. As a report about the railways points out, "The pony trucks had a flat sheet built over the single axle on which, it was discovered, hostages could be made to sit" (Figure 1).

Hence, Palestinian bodies became a warfare technology, used as human shields against insurgency attacks and as "human mine sweepers" (Cotterell 1986; see also Anderson 2013 for the use of human shields during the 1936-9 Arab revolt).

Figure 1 about here

Caption: "Two Arabs are being taken for an uncomfortable ride on the pony truck extension." Source Haganah Museum.

While human shields were used sporadically in Israel/Palestine over the next seven decades, it was only in the midst of the second *Intifada* that the legal category human shield was invoked with certain frequency. In a report entitled *Human Shield*, the Israeli human rights organization B'Tselem describes how, during the 2002 military operation "Defensive Shield," Israeli soldiers would randomly take Palestinian civilians and force them to enter buildings suspected of being booby-trapped, made them remove suspicious objects from roads, stand inside houses where soldiers had set up military positions, and walk in front of soldiers to shield them from gunfire (Stein 2002). This and other liberal human rights organizations (Sissons 2002) condemned Israel for violating the fundamental principle of civilian immunity inscribed in IHL. They noted that the Fourth Geneva Convention and the 1977 Additional Protocol explicitly forbid the use of the civilian population to aid the military objectives of the occupying army as well as the forced use of local residents as a means towards military advantage or for the securing of intelligence.

In an attempt to stop the weaponization of Palestinian human bodies, seven liberal Israeli human rights NGOs submitted a petition against the Prime Minister, the Minister of Defense and the Israeli military, asking the High Court of Justice to ban the use of human shields (Adalah 2014). In 2005, the Court reached a decision. Citing

Jean Pictet (1958), who wrote the official commentary on the Four Geneva Conventions, Chief Justice Aharon Barak characterized the use of people as human shields as a "cruel and barbaric" act. He noted that "a basic principle, which passes as a common thread running through all of the law of belligerent occupation, is the prohibition of use of protected residents as a part of the war effort of the occupying army." IHL was, in other words, used by the court to protect Palestinian civilians against the demands of "military necessity."

One year after the High Court ruling, other Israeli political actors began appropriating the term human shield. The Intelligence and Terrorism Information Center (ITIC), a conservative Israeli think-tank whose offices are located in the Ministry of Defense, published a report about Hezbollah's use of Lebanese civilians as human shields during the 2006 Lebanon War (Erlich 2006). In this report, the claims originally made by Israeli and international human rights organizations against the IDF, and which were validated by the High Court of Justice, were slightly reframed. Appropriating the same logic advanced by the liberal human rights NGOs, the anti-terrorism think-tank accused Israel's enemies of human shielding. In so doing, the think-tank transformed the prohibition of using human shields into a legal and ethical justification for military necessity (Perugini and Gordon 2015).

The think-tank reasoned that Hezbollah's violation served to legitimize Israel's killing of Lebanese civilians, pointing out that the "exploitation" of a civilian population is "considered a war crime and gross violation of international laws governing armed conflict." It went on to argue that "the IDF's air strikes and ground attacks against Hezbollah targets located in population centers were carried out in accordance with international law, which does not grant immunity to a terrorist organization deliberately hiding behind civilians, using them as human shields"

(Erich 2006 pp. 8, 10.). Hence, the use of human shields is not only a legal violation, but, in contemporary asymmetric urban wars, can also help validate the ethical claim that the death of “untargeted civilians” is merely collateral damage.

A few years later, following the Israeli military campaign in Gaza called Cast Lead (winter 2008-2009), the same conservative think-tank published a report entitled *Evidence of the Use of the Civilian Population as Human Shields* (ITIC 2009a). In this and other reports released in subsequent months, the ITIC (2009b) provided a series of images and testimonies as evidence of how Hamas and other militant groups had used homes, schools and mosques for military-operational purposes. ITIC's descriptions help corroborate Eyal Weizman's (2006) claim that cities are not simply the site but the very medium of contemporary warfare as urban spheres increasingly become primary theatres of violence. Accordingly, within urban warfare the noncombatant and combatant as well as civilian and military edifices overlap. But since the non-combatant civilian is protected according to IHL this overlapping creates a problem for liberal regimes which insist on the legality of their actions in order to underscore the morality of the violence they deploy.

Gaza 2014 and Human Shields

According to data gathered by the UN, at least 2,133 Palestinians were killed during Israel's 2014 military campaign “Protective Edge” in Gaza. Of the initially verified cases, 1,489 are believed to be civilians, including 500 children. Many fatalities involved multiple family members, with at least 142 Palestinian families having three or more relatives killed in the same incident, for a total of 739 deaths. In addition, approximately 18,000 housing units have been either destroyed or severely damaged, leaving approximately 108,000 people homeless. On the Israeli side, 72 people were killed during the war, 67 combatants and 5 civilians (OCHA oPt 2014). These

figures already point to a clear discrepancy with respect to the number and proportion of civilian deaths: 70 percent of all those killed by Israel were civilians compared to the 7.5 percent of civilians killed by Palestinians.

The legal phrase “human shield” became one of the central tropes promulgated by Israel during the Gaza war because, on the one hand, the categorization of civilians as human shields helps conceal the fact that “pin point strikes” and “surgical capabilities” can neither predict nor guarantee discrimination, while on the other hand, it helps Israel justify the large proportion of civilian deaths and the destruction of civilian spaces in Gaza. The normative argument became part of “semiotic warfare” aimed at legitimizing Israel's military campaign.⁹ Hence, in order to understand how the phrase operated during Israel’s war on Gaza it is vital to develop a critique of human shielding that is concomitantly a critique of both military and semiotic violence.

In *War and Cinema*, Paul Virilio (1989) reconstructs the history of an alignment between the way the battlefield is being structured and the structuring of the field of perception. The killing, he claims, is inseparable from the production of images. Judith Butler (2009) makes a similar claim in *Frames of War*, where she defines “framing” as an array of power operations—some of which are visual—marshaled to legitimize violence against vulnerable subjects and groups. Building on their analysis, we maintain that *social media is increasingly playing a determinant role in shaping not only the visual perception of the battlefield, but even more importantly the legal and moral gaze on the battlefield*. The way in which the

⁹ By semiotic warfare we mean, following Edward Said (1980 p. xix.), the array of discursive operations deployed in order to delegitimize an enemy and give meaning to the use of violence against it.

perception of the battlefield is framed helps determine whether the violence deployed by the different actors is legitimate or illegitimate.

An analysis of the infographics disseminated by the Israeli military through social media provides an unparalleled illustration of how Israel strived to provide legal and moral justification for killing hundreds of civilians. One of the first infographics circulated by the military sets the stage for the Gaza war by portraying Israel's assault as an attempt to defend the very essence of the liberal ideal. Using one of liberal democracy's iconic symbols, it shows rockets with bloody smoke heading towards the Statue of Liberty and asks the Western public: "What would you do?" In this way, Israel both positions itself as a liberal democracy and draws an analogy between the Gaza war and post 9/11 preoccupations of terrorist attacks against the United States.

Crucially for our analysis, the overwhelming majority of the infographics produced during Protective Edge were dedicated to human shields. One of the themes that appears in most the infographics and serves as the condition of possibility for Israel's claims about the use of human shields is the depiction of the asymmetric context in which the Gaza war took place as if it were symmetric. This symmetric representation is carried out in "Some bomb shelters shelter people, some shelter bombs" (Figure 2) as well as in numerous other infographics, where the radically disproportionate power differential and spatial disparity between a besieged population confined to an enclave and its besiegers is depicted as if the two camps were equal and enjoyed the same military and spatial capabilities. The assumption of equality not only elides the reality on the ground, but is necessary for Israel to justify—through the human shielding argument—its destruction of Gaza within a

liberal imagination. In Figure 2 liberal Israel shields humans, whereas illiberal Hamas shields bombs.

Figure 2 about here

A paradigmatic example of how Israel actually built its human shielding argument can be seen in “When is a House a Home?” (Figure 4), which shows how Palestinians presumably hide rockets in civilian homes. The logic is straightforward: insofar as Hamas hides weapons in homes (illegitimate), Israel can bomb them as if they were (legitimate) military targets. Within this semiotic warfare about the meaning of architectural structures, a single function (hiding weapons) overrides existing functions (home, shelter, intimacy, etc.) so that the edifice's form loses its normative social signification, including its attribute as a space of protection. A house is no longer a refuge; even when the majority of the people in the targeted area are, in fact, refugees, like in Gaza's case. The transformation of the space's signification is crucial, since it also transforms the meaning ascribed to the human and to the violence that is deployed. Put differently, Israel's “moral cartography,” to borrow Derek Gregory's (2006a) definition of how the conception of morally acceptable violence is related to space, is acutely apparent here since the way a place is defined determines which civilians can be killed without it being a legal and moral crime.

It is precisely the inevitable overlapping of civilian and military functions in urban warfare that creates new challenges for international law and the articulation of ethical violence for liberal regimes. The re-signification of urban architectural structures as well as of humans is the way this challenge is addressed. Accordingly, the question posed in Figure 3 “when does it become a legitimate military target?” should be understood as merely rhetorical. The answer the IDF expects is: “all houses

in Gaza can be legitimate targets since, all houses are potentially non-homes." In this way the IDF resolves the ethical dilemma of bombing civilian sites. In "Why did this turn into this?" (Figure 4) the military's graphic designer owns up to the consequences of Israel's attacks and shows how civilian homes have been transformed into rubble, but explains that this is what happens when " Hamas uses civilian homes for military purposes."

Figure 3 and 4 about here

Giorgio Agamben's analysis of sovereignty helps make sense of the IDF's discursive operation. In *Homo Sacer* (1998, 121-122; 183-184), Agamben defines sovereign power as the power to determine and administer the threshold between private and public life (see also Agamben 2014). Echoing Agamben's discussion of this threshold, Lisa Bhungalia has already shown that since Israel's withdrawal from the Gaza Strip in 2005, it has used the notion of "hostile entity" to "effectively collapse the space between the civilian body and the battlefield" (Bhungalia 2012, p. 353), while implementing a complex governing system—through the sanctions regime—that fuses Foucault's biopolitics and Mbembe's necropolitics (Ibid., 355). We maintain that the infographics articulate a similar politico-military logic but are informed by an additional and crucial layer of control. Israel's introduction of infographics is part of what we call the "apparatus of distinction," which, following Foucault's notion of *dispositif* (1980), we understand as a force that shapes, frames and thus gives meaning to the relationship among the actors within the battlefield.

A series of military video clips released during and after the Protective Edge reveal that this apparatus is made up of an array of experts from different branches of the military and security services who deploy various systems of knowledge while

utilizing numerous forms of imaging and surveillance in order to map and frame the battlefield, while they develop different algorithms and calculations to guarantee “accurate targeting.”¹⁰ The clips expose how a variety of institutions and actors—such as government and security agencies, think tanks, NGOs, and media outlets that employ legal and security experts, lobbyists, film directors, editors and producers, graphic designers, animation artists and copywriters—put to use heterogeneous technologies, such as satellite images, lasers, GPS, GIS, aerial photos and videos, and acoustic vector systems. This apparatus of discrimination maps and frames the battlefield and is put to use in order to achieve a dual purpose: it is used to direct the deployment of violence during the fighting and to interpret the meaning of violence post-hoc. The post-hoc framing is crucial to this process since it allows Israel to claim that violence was utilized in accordance with international law and is, as a consequence, ethical. The infographics help to underscore the intimate relationship between lethal force and the force of discrimination, between the force of military violence and the forces that frame that violence in order to legitimize it.

While we cannot discuss the structure and different manifestations of this apparatus here, Figure 5, for example, shows how the Israeli military reframed the function of a house and the forms of life taking place within it by claiming that the armed resistance in Gaza transformed homes into military facilities. This exceptional situation sanctions the deployment of lethal violence—in conformity with international law—against those civilians who occupy the space where normally private life takes place. In this way, the notion of human shielding erases existing

¹⁰ A paradigmatic example is a clip entitled "Targeting the Enemy: The IDF's Anti-Terror Strategy in Gaza" accessed online at <https://www.youtube.com/watch?v=j16xIxZdqgg>

distinctions between private and public spaces, including, as it were, homes within the bounds of legitimate targets by excluding their normative functions (Agamben 1998).

Israel's warfare is, however, not only about the re-signification of architectural structures. It is also about the transformation of human beings into collateral damage, subjects who can be killed in their homes without violating international law. The legitimization for its bombing is premised upon a profound moral disjuncture between Israelis and Palestinians, which is uncannily similar to the way the colonizers of old related to the natives.

In "For Hamas nothing is sacred" (Figure 5) the military's graphic designer drew the contours of a mosque between two rocket launchers and above a tunnel system that leads into the mosque. The title suggests that Hamas is different from the rest of humanity because it does not recognize the distinction between sacred and profane, and ignores the elementary grammar of the laws of war.

Figure 5 and 6 about here

This is expressed even more blatantly in "Hamas uses its Civilians to Harm Ours," where a Palestinian home is portrayed as the warhead of a Hamas rocket (Figure 6). The subtext, of course, is that the people living in this home (children, women, and the elderly) are the human weapon Hamas uses against Israel. In the context of our discussion, these infographics also intimate that Hamas does not adopt any apparatus of distinction, does not understand the ethical and normative difference between civilian and combatant, and transforms the whole population into combatants, rendering them killable. This framing travelled from social to mainstream media, and is apparent, for example, not only in the way human shields were characterized in different conservative outlets such as Fox News, but also in the way

they were presented in cartoons that appeared in scores of newspapers around the world.¹¹

The ultimate function of all these images is to insinuate a moral incommensurability between oppressors and oppressed. It both reflects and produces an ethics whereby the space of killing with impunity is dramatically expanded through the obliteration of the threshold between spaces of life and spaces of death. International law draws a connection between geographical spaces and forms of legal violence; a form of violence that is legally permitted in the battlefield is prohibited in the city or home (Orford 2003). It is clear that often these distinctions collapse in contemporary urban warfare, but the question that interests us involves the ethical justification that is provided when the distinctions are undermined.

Derek Gregory maintains that in order to overcome the ethical problem of using lethal violence in places populated by civilians Israel and the US often describe the bombed space as if it were disembodied, as if it were empty of all subjects (Gregory 2006b). But when civilians end up dying such a depiction does not really tackle the ethical problem we are addressing, since the space is revealed to be embodied, and those who bombed it can be accused of violating international law. We accordingly maintain that because the way space is defined helps determine the legal and moral status of the human inhabiting it, Israel's major strategy in its infographic campaign was to frame its war on Gaza in a way that alters the signification of certain spaces. The legality of killing civilians was thus produced by defining them as human shields operating within a warzone. Hence, Palestinian space is not depicted as empty but rather as a battleground and this alters the legal status of the people inhabiting it.

¹¹ A basic google image search of "human shields" and "cartoons" provides scores of examples.

Indeed, for Palestinians living in Gaza, simply spending time in their own homes, frequenting a mosque, going to a hospital or to school became a potentially lethal activity, since any one of these architectural edifices could become a target at any moment.

One of the effects of the politics of human shielding is that one can no longer safely assume that the existence of masses of human bodies in civilian spaces can serve as defense against the lethal capacity of liberal hi-tech states. In other words, this politics seems to consist of a twofold process in which the redefinition of space enables the redefinition of the civilian and his or her transformation into a shield.

A Humanitarian Shield

Obviously, the infographics were not the only images circulating in the public sphere during the Gaza war. Many images, both in social and in the mainstream media, showed the massive destruction in Gaza carried out by the Israeli military. Therefore, one should understand the infographics as part of a counter-narrative disseminated by Israel in order to respond to the allegations of egregious violations and war crimes. It appears that the infographic campaign had three objectives. First, it was aimed at Israel's supporters in order to guide them how to respond to the harsh accusations regarding the number of civilian deaths and the degree of destruction in Gaza. Second, it provided a line of argumentation for certain, mostly conservative, media outlets. Finally, it offered a legal defense. Considering that the fighting in Gaza has been subjected to international legal oversight, we understand the infographics as part of a lawmaking process resulting from the interaction and convergence of different political actors involved in the allocation of the right to live and to die in

contemporary wars. It is this last objective that we want to briefly examine before turning to the conclusion.

A tension exists between the prohibition of killing human shields and the principle of proportionality. This tension is part of a lawmaking process that emerged with particular force after the so-called “War on Terror” and its penetration into urban spaces. Scholars of different stripes agree that the principle of proportionality—which requires belligerents to refrain from causing damage disproportionate to the military advantage to be gained—remains prevalent in cases of human shielding, but as Yoram Dinstein claims the “actual test of excessive injury to civilians must be relaxed. That is to say, the appraisal of whether civilian casualties are excessive in relation to the military advantage anticipated *must make allowances for the fact that—* if an attempt is made to shield military objectives with civilians—*civilian casualties will be higher than usual*” (Dinstein 2004 p. 131. Italics added). The US Air Force adopts a similar position, maintaining that “lawful targets shielded with protected civilians may be attacked, and the protected civilians may be considered as collateral damage, provided that the collateral damage is not excessive compared to the concrete and direct military advantage anticipated by the attack” (cited in Schmitt 2008 p. 51).

That killing civilian human shields is permitted according to IHL, when certain conditions are fulfilled, is not only the view of the hi-tech militaries and their intellectuals of the court, but is basically the position adopted by humanitarian and human rights organizations. The International Committee of the Red Cross notes, in a manual entitled *Fight it Right*, that the “attacking commander is required to do his best to protect [civilian shields] but he is entitled to take the defending commander’s actions into account when considering the rule of proportionality” (Rogers and Malherbe 1999). The convergence between ICRC and the militaries of different

countries can be understood, using Gramsci's terms, as the manifestation of a historical bloc composed of ostensibly conflicting actors but which in actuality both reflects and re-produces the hegemony of liberal culture. They would all concur that Israel “fought the war right”: it used “precise hi-tech weapons” and took the “necessary precautions” when launching the assault. Thus, humanitarian law not only frames Israel's war as ethical, but also serves as a shield, protecting the pilots, drone operators and those who sent them on their missions from legal suits in courts that exercise universal jurisdiction.

The mobilization of the human shield category as a humanitarian shield enables the legitimate use of lethal force. This is the position of the Israeli army, but also of several just war theorists, from Michael Walzer to Asa Kasher. For them the Palestinian civilians are indeed civilians, but even though Israel killed them, Israel is not the party responsible for their deaths (Kasher 2014; Walzer 2013). Hamas, we are told, shoulders a double responsibility—for attacking Israeli civilians and for killing Palestinian civilians—while the Israeli liberal regime bears no responsibility. Therefore it is not surprising that Israel, rather than the Palestinians, introduced the term human shielding in order to make sense of its violence in Gaza and used it incessantly. Israel constructed Palestinian civilians as human shields because if the hundreds of Palestinians that were killed during the war would have been considered simply civilians rather than human shields, then the drone and F-16 attacks would amount to a war crime according to international law. The legal and semiotic power to ascribe the status of human shields to civilians is the power to define the legitimacy and illegitimacy of the violence utilized against them.

Accordingly, it is not surprising that the same logic informing the production of the infographics was also used by local and international NGOs as evidence of

Hamas's deliberate strategy of human shielding. Two conservative organizations, NGO Monitor and UN Watch (2014), produced, for example, a joint report attacking the United Nations and prominent human rights NGOs for their presumed incapacity to investigate in a neutral manner the 2014 Gaza war. Written in collaboration with Colonel Richard Kemp—former commander of the British forces in Afghanistan—the report argues that Hamas's human shielding and Israel's presumed deployment of its apparatus of discrimination legitimizes the extensive killing of Palestinian civilians that took place in Gaza. "If Israel is striking Hamas fighters, tunnels, or weaponry hidden in homes, mosques, schools, or hospitals, then," the report's writers assert, "its attacks cannot be branded as 'indiscriminate' or as 'targeting civilians.'" They explain that "Under the laws of war, military objectives may be attacked, even if civilians are present, so long as such attacks are in accordance with the principle of proportionality" (UN Watch NGO Monitor 2014, p. 101).

Thus, the mobilization of the normative category of human shields in the context of a war should be understood as an attempt to rationalize violence. Accusing the enemy of using civilians as human shields changes the status of these civilians, transforming them into quasi-combatants that can be killed according to the law; but it also changes the broader moral economy of war, since accusing the enemy of human shielding is a way of charging it of immoral warfare. The accusation of using human shields denounces not only those actors who deploy the shields, but, potentially, the entire enemy population.

Accordingly, the human shield does indeed offer protection, but only to those killing civilians and destroying civilian spaces. This is precisely the kind of liberal rationalization that Laleh Khalili examines in *Times in the Shadows* (2012). Khalili's analysis of liberal warfare and the desire to always frame its deployment of violence

as legal and therefore ethical helps explain why the discourse of human shields is prominent within the Israeli context, but nearly absent in relation to political regimes that are considered to be illiberal.

Conclusion: The Antinomy of Human Shields

The politics of human shielding lays bare a fundamental political antinomy informing liberal wars. Similar to Agamben's homo sacer, a human shield is a person who can be killed without it being a crime. However, unlike homo sacer, a human shield is neither outside the law nor excluded from political society. Indeed, the condition of possibility of becoming a human shield is that one *is not* a homo sacer, but instead the person is recognized as a civilian situated within the law and a bearer of rights. In this sense, we disagree with those who have characterized the population in Gaza as simply homines sacri.

While we have shown that international law permits killing human shields, we have also explained how in order to become a shield the inhabitants of Gaza have to be considered vulnerable beings presupposed as civilians—a legal category that was denied to other colonized populations in the past. Their constitution as vulnerable civilians exploited by Hamas—the uncivilized enemy that does not recognize the value of civilian life—as tools of military protection allows the Israeli military to classify them as human shields, while this classification enables the military to kill them and transform the buildings they occupy into rubble in accordance with international law. Hence, Gregory's description of the situation in Palestine as "the death of the civilian" appears to be overly hasty, since being a civilian serves as the condition of possibility for the production of the human shield category and as such is

an essential component in the legitimization and rationalization process that renders the population of the Gaza Strip killable.

This is where the first antinomy emerges. The laws of war intimate that the residents of Gaza should be protected as civilians (not *homines sacri*), but concomitantly allow Israel to kill them without violating the law (like the *homines sacri*). This antinomy originates from a fundamental ambivalence constituting the politics of human shielding: human shields are in fact framed as civilians who, in specific circumstances of war, acquire a particular function (namely, shielding) and this function produces their liminal status in such a way that they come to occupy a legal threshold. They are civilians, but they are no longer simply civilians since willingly or unwillingly a new function has been added to their definition as civilians. For this function to actually work they have to continue to be considered civilians (if they were transformed into combatants or inanimate objects there would not be a quandary), but they are now—however passively—considered an integral part of the hostilities, which transforms them into killable subjects.

A second antinomy is intricately tied to the first one. Human shielding seems initially to denote a practice of military protection, whereby the human body is conceived as a form of defense against potential attacks. And yet, as we have shown, the constitution of a civilian as a human shield renders him or her killable and his or her space of life destroyable, revealing, as it were, that the technology of protection is in reality a necro-technology that allows the deployment of lethal force against the vulnerable life of the shield.

In *Frames of War*, Judith Butler argues that the norms through which we recognize and frame vulnerability can either presuppose or refuse human vulnerability itself (Butler 2009 p. 13). In the politics of human shielding civilian vulnerability is

presupposed in order to be refused. The constitution of a space in which human shields are legitimately killable is premised upon the framing of their life as vulnerable life. Human shields are presupposed as precarious civilian lives that according to international norms occupy a wrong position in the battlefield and are thereby killable.

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