
December 22, 2024
21 Kislev 5785

To:
The Attorney General
The Military Advocate General

Subject: The Legal Duty to Investigate

1. We write to you following reports from recent weeks from various sources (see [here](#) and [here](#)), and most recently in *Haaretz* newspaper (see [here](#) and [here](#)), raising serious suspicions of acts committed during the fighting in the Gaza Strip that may constitute grave offenses under Israeli law and war crimes under international law. According to these reports, the allegations include deliberate and widespread harm to civilians, excessive use of force, destruction of homes and infrastructure without military necessity, forced displacement or transfer of civilians from the north to the south of the Strip, the deliberate deterioration of humanitarian conditions, and the detention of individuals in inhumane conditions. IDF commanders and soldiers described to *Haaretz* journalist Yaniv Kubovich an army “operating as an independent armed militia, without rules — at least none written in IDF orders.” (December 18, 2024). A senior reservist commander who recently completed another tour in the Netzarim corridor was quoted as saying, “We’ve been in a place for over a year where there are no laws, and human life means nothing.”
2. These reports come from IDF soldiers, including reservist officers who volunteered for extended combat service. There is no reason to suspect that they are hostile to the State of Israel or that their reports are untruthful. Some of the reports mention senior commanders issuing clearly illegal orders to officers and soldiers, including orders to shoot civilians waving white flags and to kill anyone crossing an imaginary line that Gazans are prohibited from crossing. Officers also reported a practice whereby civilians who are killed are classified as combatants, even when there is no evidence to support that classification, and when identity checks of the dead reveal that only a small percentage were Hamas operatives. Such classifications are used, among other things, to justify avoiding accountability for civilian deaths.
3. These reports raise suspicions of extensive violations of the fundamental rules of the laws of war. The obligation to distinguish between combatants and civilians is a cornerstone of the law of armed conflict. This principle applies in all circumstances, regardless of the justness of the war itself. Under international law, in cases of doubt as to a person’s status, the presumption is that they are a civilian who must not be harmed. It is clear that killing a person waving a white flag, or merely for crossing a real or imaginary line, is a prohibited act constituting a war crime.
4. Given these testimonies and the scope of the evidence published by various sources in Israel and abroad, the IDF and the civilian law enforcement system cannot dismiss the

matter with a vague response such as “any events that raise concerns of deviation from IDF orders and ethical standards are being examined and addressed.” Such a general and unsubstantiated reply contradicts the recommendations of the Turkel Commission and the report on their implementation, which was adopted by the Security Cabinet.

5. The Turkel Commission recommendations require that suspicions of crimes be investigated through independent and effective inquiries aimed at establishing the facts and ensuring accountability, and that such investigations be conducted promptly. The recommendations also demand transparency that allows for public oversight. As the Commission stated, “The principle of transparency greatly contributes to a culture of accountability.” Adhering to transparency allows an important message to reach every soldier and deters violations of the laws of war. Concealing the investigative processes sends the opposite message: that there are no laws, and human life has no value.
6. The Turkel Commission formulated the investigative requirements in light of the demands of international law. Indeed, the duty to investigate derives from the positive obligation in the laws of war to minimize harm to civilians as much as possible. The obligation to examine and investigate is particularly incumbent upon military command, pursuant to explicit provisions requiring the prevention and punishment of war crimes. Failure to fulfill these duties may result in criminal responsibility for commanders at all levels of the chain of command for acts committed by their subordinates. Moreover, a state’s failure to investigate suspected unlawful killings by its forces constitutes a violation of its duty to respect the right to life — a duty that remains even under the harsh conditions of war.
7. If lawful investigations are indeed being conducted, there is no reason to conceal their existence and thereby violate the requirement of transparency. On the contrary: if the investigation found no legal violations, knowledge of its existence sends a vital message of adherence to the law and the values of the army. And if it did reveal suspicions — all the more so, there is an obligation to disclose the findings.
8. We emphasize that the obligation to investigate suspected war crimes exists independently of the jurisdiction of the International Criminal Court, which is currently investigating the war in Gaza, or the possibility that Israeli citizens will face prosecution in foreign courts. However, failure to conduct an independent, effective, and transparent investigation increases the risk that IDF officers and soldiers will face prosecution by the ICC or foreign tribunals.

In light of the above, we call on you to order an investigation into the allegations raised in the aforementioned reports.

This investigation must meet all the international legal requirements of independence, effectiveness, promptness, and transparency.

Signed:

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