

**December 1, 2025**

To:  
The Military Advocate General

**Re: The Duty to Investigate Suspicions of the Commission of War Crimes**

First and foremost, we congratulate you on your appointment as Military Advocate General and wish you success in this important role.

As lecturers in international law at institutions of higher education in Israel, during the fighting in Gaza we found it appropriate to write a series of letters to the governmental authorities, warning of possible violations of international law in the course of the hostilities in Gaza and emphasizing the duty to investigate suspicions of the commission of war crimes by IDF officers and soldiers. The letters addressed, inter alia, the deliberate and widespread killing of civilians, the use of excessive force, the destruction of homes and infrastructure without military necessity, the deportation or forcible transfer of civilians, the deliberate denial of access to humanitarian aid, and the detention of detainees under inhumane conditions. Copies of the letters may be found here.

These matters have not lost their urgency even after the ceasefire in Gaza was achieved. Thus, for example, only in recent days it was reported that two children were killed for having “crossed a line” in the Gaza Strip, although, to the best of our knowledge, there is no official order authorizing the killing of a person merely for crossing such a line, and in any event such killing is prohibited under the law.

In our letter of 22/12/2024, we elaborated on the duty imposed upon the governmental authorities in the State of Israel to investigate suspicions of the commission of war crimes. We noted that this duty was detailed in the report of the Turkel Commission, which was established by the Government of Israel following the Turkish flotilla affair. We explained that the Turkel Commission’s recommendations require that suspicions that crimes were committed be investigated through an independent and effective investigation, aimed at clarifying the facts and exhausting the law, and conducted with due promptness. The source of the suspicion may include, inter alia, testimony by soldiers or officers or reporting in the media.

The Turkel Commission formulated the investigative requirements in light of the demands of international law. Indeed, the duty to investigate is a corollary of the positive obligation under the law of armed conflict to minimize, to the extent possible, harm to civilians. The duty of examination and investigation is imposed particularly upon the military command pursuant to explicit provisions of international law concerning the obligation to prevent war crimes or to punish their commission. In the event of a failure to fulfill these duties, commanders—throughout the entire chain of command—may incur criminal responsibility for the acts of their subordinates. Moreover, a state’s failure to investigate a suspicion that its forces unlawfully killed a person entails the state’s responsibility for breach of its duty to respect the right to life, a duty that applies even under the harsh conditions of war.

The duty to investigate suspicions that war crimes were committed exists irrespective of the jurisdiction of the International Criminal Court, which is currently conducting an investigation regarding the war in Gaza, or the possibility that Israeli citizens may be prosecuted in the courts of other states. However, the failure to conduct an independent, effective, and transparent investigation increases the risk that IDF officers and soldiers will be prosecuted before the International Criminal Court or before foreign courts.

In recent days it was reported that Border Police officers killed two Palestinians in Jenin after they had surrendered. It was published that the Police Internal Investigations Department opened an investigation into this killing, although the incident occurred in an area under the control of the IDF. In this context, it is important to emphasize that in territories under the control of the IDF, the military commander is responsible for all actors operating in the area, including police forces. He is legally obligated to prevent acts by violent actors, including Jewish extremists. If a suspicion arises that a crime has been committed, he is responsible for ensuring that an investigation is conducted.

Since there is no transparency regarding the conduct of investigations, we have no ability to know which investigations have been opened to date. However, we wish to emphasize that the fact that investigations were not opened, or that no instructions were given in the past to open investigations regarding certain suspicions, does not exempt the system from the duty to investigate those suspicions today. Section 178 of the Military Justice Law, 5715–1955, provides that the Military Advocate General “shall supervise the administration of justice in the army.” It follows, therefore, that upon your appointment to the high office of Military Advocate General, the duty rests upon you to order an investigation in cases where a suspicion arises of the commission of war crimes by IDF officers and soldiers. In order to meet the legal requirements enumerated in the Turkel Commission’s report, any investigation into a suspicion of a war crime must be conducted with due promptness and must be independent and effective.

In conclusion, we note that to this very day, after two years of war, no information has been published regarding the number of complaints being investigated by the various investigative bodies within the IDF, what they concern, who the suspects are, and at what stage the proceedings stand. We call for the disclosure of this information, which is essential for the public discussion concerning the war, as soon as possible and with the greatest possible transparency. As we noted in our letter of 22/12/2024, the Turkel Commission elaborated extensively on the need for transparency that enables public scrutiny, and emphasized that “the principle of transparency greatly contributes to a culture of accountability.” Among other things, adherence to transparency ensures that the important message of compliance with the law reaches the last of the combatants and deters violations of the laws of armed conflict. Concealment of the proceedings conveys the opposite message: there are no laws, and human life is worth nothing.

Respectfully,

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