



Israel's Investigation of Alleged Violations of the Law of Armed Conflict

Israel is well aware of allegations of violations of international law during Operation Protective Edge (hereinafter: the 2014 Gaza Conflict). Israel reviews complaints and other information suggesting IDF misconduct, regardless of the source. Moreover, Israel is committed to investigating fully any credible accusation or reasonable suspicion of a serious violation of the Law of Armed Conflict,¹ and in fact its policy of carrying out investigations goes beyond its obligation under international law.

In 2010 the Government of Israel created an independent public commission of inquiry headed by retired Israeli Supreme Court Justice Jacob Turkel and observed by international legal experts (the "Turkel Commission"), whose mandate included an assessment of Israel's mechanisms for examining and investigating complaints and claims regarding alleged violations of the Law of Armed Conflict. The Turkel Commission reviewed Israel's investigations systems, including the military system of justice — which includes a multi-stage process directed by Israel's Military Advocate General (the "MAG"), Military Courts, civilian oversight by the Attorney General of Israel, and judicial review by the Supreme Court of Israel — in light of the "general principles" for conducting an effective investigation under international law: independence, impartiality, effectiveness and thoroughness, and promptness.² Following a careful and comprehensive review, the Turkel Commission concluded in 2013 that Israel's mechanisms for examining and investigating complaints and claims of violations of the Law of Armed Conflict generally comply with its obligations under international law. Although the Turkel Commission recommended additional best practices that Israel might implement, it found that Israel's system ranks favourably with those of other democratic

¹ This Paper uses the term Law of Armed Conflict in its ordinary sense — describing the legal obligations of parties to an armed conflict in the course of their military operations. International Humanitarian Law is used by many commentators and countries as an interchangeable term, as is the laws of war.

² For more information regarding Israel's investigations system, see Chapter C (pages 266-358) of The Public Commission to Examine the Maritime Incident of 31 May 2010, Second Report – The Turkel Commission: Israel's Mechanisms for Examining and Investigating Complaints and Claims of Violations of the Laws of Armed Conflict According to International Law (Feb. 2013) (hereinafter: "Turkel Report"), available at <http://www.turkel-committee.gov.il/files/newDoc3/The%20Turkel%20Report%20for%20website.pdf>, which includes a detailed description of the mechanisms in place for examining and investigating complaints and claims regarding alleged violations of the Law of Armed Conflict. See also Michael Schmitt, *Investigating Violations of International Law in Armed Conflict*, 2 HARV. NAT'L SEC. J. 31 (2011) (discussing the applicable criteria for investigations to comply with international law).



countries, including Australia, Canada, Germany, the Netherlands, the United Kingdom and the United States.³

Notwithstanding the endorsement of the Turkel Commission and numerous foreign jurists,⁴ Israel continually seeks to improve the effectiveness and efficiency of its investigations system. For example, in recent years Israel has developed a specialized prosecution unit to deal with allegations of misconduct arising from Israeli military operations. And in July 2014, while IDF forces were engaged in the 2014 Gaza Conflict and before the process for implementing the Turkel Commission's recommendations was complete, the IDF Chief of General Staff implemented one of the Commission's key recommendations: creation of a permanent Fact Finding Assessment Mechanism ("FFA Mechanism"). The FFA Mechanism is tasked with examining exceptional incidents (such as an attack resulting in significant, unanticipated civilian casualties) in order to assist the MAG's decision whether to open a criminal investigation and also to inform the IDF's "lessons-learned" process so that steps may be considered in an effort to minimise the risk of such incidents in the future.

The numerous practical challenges involved in examining and investigating alleged violations of the Law of Armed Conflict in the context of the 2014 Gaza Conflict have not deterred examination and investigatory efforts. The IDF's new FFA Mechanism is actively examining approximately 100 incidents. Some examinations have been completed, and some are pending review by the MAG. The MAG periodically publishes his decisions. To date, the following details have been released: The MAG thus far has opened 13 criminal investigations based on a reasonable suspicion of criminal misconduct. Some of these criminal investigations were opened following an examination by the FFA Mechanism, and others were opened without an FFA examination, on the basis of credible allegations that *prima facie* gave rise to a reasonable suspicion of criminal wrongdoing. The MAG also has closed a number of cases after reviewing findings and material collected by the FFA Mechanism and concluding that there is no reasonable suspicion of criminal misconduct. The

³ See Turkel Report at Chapter C; *see also* Turkel Report at Chapter B (pages 152-264) ("Comparative Survey of Investigative Systems Relevant to Laws of Armed Conflict").

⁴ See, for example, the decision of the Criminal Chamber of the National Court of Spain following a request to investigate military action carried out by the IDF against Salah Shehadeh, a leader of Hamas, in July 2002. Decision no. 1/2009, 9 July 2009 (plenary), Criminal Chamber of the Spanish National Criminal Court of Appeals ("Sala de lo Penal de la Audiencia Nacional"), at 24, regarding Preliminary Criminal Proceedings no. 157/2008 of the Central Investigation Court no. 4; Plenary of the Criminal Chamber of the Supreme Court, Appeal no. 1979/2009, 5 April 2010, at 6 (confirming the decision). *See also* Appeal of the Coordinating Prosecutor (Pedro Martinez Torrijos), 6 May 2009, from the Order of Criminal Investigating Court no. 4 of the National Court, 4 May 2009, in Preliminary Proceedings Case No. 157/2008 (emphasizing that Israel's investigatory system, with review by Military Advocate General, Attorney General, and Supreme Court, "fully satisfy" the requirements of "an independent and impartial system of justice").



examination and investigations process is ongoing, and the MAG is committed to providing further updates on decisions concerning specific incidents.⁵

As in the civilian justice system, criminal investigations in the military justice system often take considerable time, and military prosecutors must thoroughly review all available evidence before deciding whether to bring criminal charges. As explained below, this is especially true in the complex circumstances of intensive military activity that takes place against terrorist groups outside Israeli territory.

In addition to conducting thorough preliminary fact-finding examinations and criminal investigations, the IDF focuses on the lessons learned from these processes and will continue to improve its military doctrine and operational practices in further efforts to limit harm to civilians and civilian property during military operations.

A. The IDF's Military Justice System

The IDF maintains a multi-layered investigations system, with numerous checks and balances to ensure impartiality before investigative, administrative, and judicial authorities.

1. Components

The three main components of the military justice system are the Military Advocate General's Corps ("MAG Corps"), the Military Police Criminal Investigation Division ("MPCID"), and the Military Courts. The MAG Corps consists of highly trained lawyers who are divided into two units, one responsible for enforcing the law (both military and criminal) throughout the IDF⁶ and another responsible for providing legal advice to all military authorities.⁷ The head of the MAG Corps (the Military Advocate General), who serves on the IDF General Staff and holds the rank of a Major General, is appointed by the civilian Minister of Defence⁸ and "subject to no authority but the law."⁹

⁵ See *Decisions of the IDF Military Advocate General regarding Exceptional Incidents that Occurred during Operation 'Protective Edge' – Update No. 2*, IDF, MAG Corps (Dec. 7, 2014), available at <http://www.law.idf.il/163-6958-en/Patzar.aspx>. For an earlier report, see *Operation Protective Edge: Examinations and Investigation*, IDF, MAG Corps (Sept. 10, 2014), available at <http://www.mag.idf.il/261-6858-en/Patzar.aspx?pos=13>.

⁶ Military Justice Law 5715–1955, LA 189, art. 178(2), (4) (hereinafter: "Military Justice Law"); Supreme Command Order 2.0613, "The MAG Corps", para. (2)(a) (15.3.1976) [hereafter "SCD 2.0613"]. See also *Avivit Atiyah v. Attorney General*, HCJ 4723/96 ¶ 11 (29 July 1997).

⁷ Military Justice Law, § 178(1); IDF Supreme Command Order 2.0613(2)(b) and 3(d).

⁸ *Id.* §§ 177(a), 178(1).



On professional matters, the MAG is guided only by Israel's Attorney General. The MAG's professional independence extends to every subordinate military attorney serving as an officer within the MAG Corps. These officers are subordinate to and report directly to their MAG Corps commanders, who, in turn report to the MAG himself. This legal chain of command is an important and fundamental aspect of the MAG Corps, implemented to insulate military legal officers from the risk of improper influence by non-MAG commanders. No commanders outside of the MAG Corps are part of the legal chain of command.

In 2007, the MAG Corps underwent two significant organisational changes designed to improve its ability to more effectively enforce the rule of law. First, the MAG Corps separated its law enforcement units from its legal advice units. As a result, the MAG Corps officers responsible for military prosecutions (*i.e.*, the Chief Military Prosecutor and subordinate military prosecutors) no longer provide legal advice to the military bodies whose activities they may prosecute.¹⁰ The dual (but separated) enforcement and advisory responsibilities that the MAG himself retains parallel those of the Attorney General of the State of Israel.

Second, the MAG established a specialized department within the law enforcement unit — the Office of the Military Advocate for Operational Affairs — to oversee all investigations and conduct all prosecutions of alleged misconduct by IDF soldiers occurring in the context of operational activity, including alleged mistreatment of detainees, looting, abuse of authority, or the use of force in a manner not conforming with IDF rules and regulations (and the Law of Armed Conflict incorporated therein). This Office's mandate specifically includes prosecution of alleged violations of the Laws of Armed Conflict. Prosecutors assigned to the Office receive special training to ensure they competently manage these sensitive cases and effectively advise military police investigators on how to manage with investigations regarding IDF operations.

The IDF's primary entity for investigating allegations of criminal offences — the Military Police Criminal Investigation Division — enjoys complete professional independence similar to that of the MAG Corps. The MPCID is not subordinate to any commanders outside the military justice system. All MPCID investigators must complete extensive training.¹¹ Investigators handling alleged violations of the Law of Armed Conflict receive additional training that includes international law, reconstruction of battlefield situations, and gathering of evidence from witnesses and alleged victims outside Israeli territory. All investigators handling complaints regarding Palestinians are assisted by

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⁹ IDF Supreme Command Order 2.0613(9)(a).

¹⁰ Turkel Report at 283.

¹¹ Military Justice Law, § 252(a)(3).



Arabic-speaking interpreters. Following the 2014 Gaza Conflict, the MPCID established a specialized team dedicated to investigations arising from that Conflict. This MPCID team consists of experienced investigators who undergo in-depth training with respect to the Law of Armed Conflict, as well as operational affairs.

The Military Courts — which are independent of both the MAG and the IDF chain of command — adjudicate charges against IDF soldiers for military and other criminal offenses. The Military Court system includes regional courts of first instance, as well as a Military Court of Appeals. The head of the Military Courts system, the President of the Military Court of Appeals, is also a Major-General. Professional military judges (appointed by an independent commission¹²) and regular IDF officers (who have no connection to the cases they hear) serve on these Military Courts.¹³ Each bench of the Military Courts must include at least one professional military judge, and professional judges must constitute a majority of any appellate panel.¹⁴ Under the Military Justice Law, “[i]n judicial matters, a military judge is not subject to any authority save that of the law, and is not subject in any way to the authority of his commanders.”¹⁵

The proceedings of Military Courts are generally open to the public, except in rare cases when an open proceeding would jeopardize national security.¹⁶ The media covers Military Court proceedings, and many judgments of the Military Courts are published online.¹⁷ Furthermore, Military Courts typically apply the same rules of evidence used in civilian criminal proceedings.¹⁸

¹² Military commanders do not appoint professional military judges. Rather, an independent commission comprised of the Minister of Defence, the Minister of Justice, the General Chief of Staff, the Head of Manpower Directorate in the IDF, members of the Israeli Supreme Court and the Military Court of Appeals, and a representative of the Israeli Bar Association, make the appointments. *See* Military Justice Law, § 187(a).

¹³ *Id.* The Israeli Supreme Court has noted that the participation of regular officers in the panel serves “to emphasize the common responsibility of all of those who serve in the military regarding what happens in the military.” *Katz v. President of the Court Martial, Central Jurisdictional District*, H CJ 142/79 ¶ 6 (10 June 1979).

¹⁴ Military Justice Law, §§ 202, 216

¹⁵ *Id.* § 184.

¹⁶ *Id.* § 324.

¹⁷ *See, e.g.*, Nevo Press Ltd. (<http://www.nevo.co.il/>) and Takdin Online Israeli Law Database (<http://www.takdin.co.il/>).

¹⁸ *See* Military Justice Law, § 476 (establishing that evidence law applicable to criminal proceedings in civilian courts shall apply in Military Courts unless a specific provision states differently). Rules of evidence that are unique to the Military Courts must be interpreted in light of similar provisions and the principles of general evidence law. *See Isascharov v. Military Prosecutor General*, Cr.A. 5121/98 (4 May 2006).



2. Mechanisms for Investigating Complaints

Israel has multiple avenues for obtaining information regarding alleged misconduct by IDF soldiers, and the MAG Corps constantly reviews any complaints and other information that may suggest IDF misconduct, regardless of the source. As an open and democratic society, Israel has a free press and an active community of domestic and international non-governmental organisations, which are a source of many of the allegations of misconduct. Such allegations also may come from putative victims, their family members, attorneys, or witnesses of the conduct at issue. In fact, any person can file a complaint alleging misconduct by IDF soldiers, with any civilian police or MPCID station, either by appearing in person or through written communication. Gaza residents also can — and indeed do — file complaints directly to the MAG through Israel’s liaison mechanism with the Palestinian Authority, through a non-governmental organisation acting on their behalf, or through an attorney (who need not be Israeli).

In addition, Israeli commanders, soldiers, police, or other law enforcement officers who witness an offense being committed may file a report to a competent officer. Indeed, under the Military Justice Law, any IDF “commander ... or soldier who knows or has reasonable grounds to believe that another soldier committed an offense” *must* prepare a complaint and present it to a competent officer.¹⁹ Furthermore, on the basis of a recommendation made in the Turkel Report, the IDF has revised existing procedures and introduced a specific directive asserting a duty to file a report in certain cases, for example, when there is reasonable suspicion that an IDF soldier committed a serious violation of Israeli or international law, as well as certain other cases even if no such cause for suspicion arises, such as when medical facilities are damaged. The IDF is currently integrating this new, more detailed directive into all levels of IDF command and in the field.

Each report, complaint or other piece of information suggesting IDF misconduct undergoes an initial screening process by the MAG Corps to determine whether it is sufficiently concrete and credible *prima facie* to merit further review by the MAG. In certain cases, where the known facts are sufficient to indicate that the alleged wrongdoing could be of a criminal nature (such as looting or the abuse of detainees), the MAG immediately refers the complaint to the Military Police Criminal Investigation Division. In other cases — for example, when an allegation is sufficiently credible yet partial or circumstantial — the MAG may require additional information in order to decide whether to open a criminal investigation. Because the death or injury of civilians during an armed conflict — an unfortunate but inevitable reality of war — does not in and of itself establish a reasonable suspicion of criminal misconduct, the collection of additional information is often critical when

¹⁹ Military Justice Law, § 225.



addressing allegations of wrongdoing during combat activity. In such cases, the IDF will conduct a preliminary fact-finding assessment in order to develop the factual record so that the MAG can make a fully informed decision whether there is a reasonable suspicion of criminal misconduct that justifies opening a criminal investigation.²⁰

The IDF's New Fact-Finding Assessment Mechanism. Soon after the commencement of the 2014 Gaza Conflict, the IDF Chief of General Staff ordered the establishment of a permanent General Staff Mechanism for Fact-Finding Assessments, in accordance with one of the Turkel Commission's key recommendations.²¹ The FFA Mechanism is designed to conduct, based on proper expertise, a prompt, professional examination of exceptional incidents during military operations, so that the MAG has sufficient factual information to determine whether allegations give rise to a reasonable suspicion of criminal misconduct. The FFA Mechanism examines all exceptional incidents referred to it by the MAG.

The FFA Mechanism is currently headed by a Major General and relies on high-ranking IDF reservist and active duty officers who are outside the chain of command for the operational activity being examined. The FFA teams include officers with operational expertise, legal qualifications, and professional investigative experience. Each team is also provided with on-going legal advice from legal officers in the MAG Corps, who have particular expertise and experience in international law. In addition, the FFA Mechanism receives legal advice from its own high-ranking legal advisor, who has special expertise in international law.

The FFA Mechanism has broad-ranging powers to obtain information from within and outside the IDF, including from civilians. IDF soldiers are obliged to cooperate with the FFA Mechanism. To encourage full disclosure of relevant information, Israeli law treats the materials and findings of the FFA Mechanism as privileged.

Once an FFA Mechanism examination is complete, the MAG decides whether the findings and collected materials meet the requirements for a criminal investigation. In order to make this decision, the MAG may request supplementary examinations and materials from the FFA Mechanism. The MAG's decision must be prompt, reasoned, and documented. Complainants (including Gaza residents and Palestinian NGOs) receive notification of the MAG's decision, which

²⁰ *Id.* § 539A(a).

²¹ See *Operation Protective Edge: Examinations and Investigation*, IDF, MAG Corps (Sept. 10, 2014), available at <http://www.mag.idf.il/261-6858-en/Patzar.aspx>.



is also made public subject to legal and national security restrictions regarding the scope of information that can be disclosed.

If so directed by the MAG, the MPCID must conduct a criminal investigation. The MPCID's staff may investigate any IDF soldier or commander, collect evidence from a wide range of sources (including witness testimony of Palestinians), and seek counsel from military prosecutors. When the MPCID concludes its investigation, it transfers the case file to the Office of the Military Advocate for Operational Affairs. After a thorough review of the investigation materials, the military prosecutors can — and in many cases do — request supplemental investigations.

The MAG may also refer the findings and materials collected by the FFA Mechanism to an Investigative Officer, who is an operational commander outside the chain of command for the operational activity being investigated and who is specifically vested with the same investigatory authorities exercised by the MPCID.²² Once the Investigative Officer's work is complete, the investigation material is transferred back to the MAG for review.

Following a criminal investigation (or investigation by an Investigative Officer), the MAG decides whether to initiate criminal or disciplinary proceedings. The MAG's decision must be based on the evidence available and the nature of the alleged misconduct. In accordance with well-established principles of criminal law, military prosecutors may file an indictment in the Military Courts if the evidence is sufficient to establish a reasonable chance of conviction.²³ In the event of an indictment, Palestinian witnesses may testify in Israel with the aid of an interpreter and generally may review the investigation file. The Military Prosecution may appeal an acquittal or a sentencing decision to the Military Court of Appeals, and then may request to appeal the decision of the Military Court of Appeals to the Israeli Supreme Court.²⁴

Practical and Legal Challenges to Investigations and Prosecutions. The IDF's robust military justice system satisfies, and in many respects exceeds, international standards.²⁵ On a practical level, investigation of alleged violations of the Law of Armed Conflict inevitably is complicated by

²² Military Justice Law, § 252 et seq.

²³ Under Israeli Supreme Court precedent, a criminal indictment may only be filed where a "reasonable chance to convict" exists in light of all evidence collected, including exculpatory evidence. *See, e.g., Yahav v. State Attorney*, HCJ 2534/97 (30 June 1997).

²⁴ *See for example. Military Prosecutor v. Sgt. Ilin*, C/62/03 ¶ E (27 May 2003), where the Military Court of Appeals increased the sentence of a soldier convicted of looting; and *Military Prosecutor v. Cpl. Lior and Cpl. Roi*, C/128/03 and C/146/03 ¶ 17 (21 August 2003), where the Military Court of Appeals increased the sentences of two soldiers serving in the Military Police who were convicted of assaulting Palestinian detainees.

²⁵ *See supra*, notes 2 and 3.



numerous challenges, especially in the context of an intensive conflict with a non-state actor like Hamas that embeds its military operations in urban terrain. Generally accepted understandings of international law recognise the inherent difficulties of conducting investigations in the context of armed conflict. The application of international legal standards needs to be adapted to such realities, while at the same time remaining true to the ultimate aim of conducting effective investigations.²⁶

These (often overlapping) challenges include, for example:

- the scene of the alleged violation being outside Israeli territory;
- the scene of the alleged violation being in an area under hostile control, which makes the collection of evidence difficult and, at best, incomplete, and makes the investigation of the scene practically impossible (*e.g.*, the collection of forensic evidence is often crucial in order to determine the type of weaponry that caused damage to a civilian structure; aerial photographs would not always be sufficient to make this determination, particularly when destruction was the result of a type of weaponry that both parties to the conflict possess);
- the lack of eyewitnesses to certain military activity (such as an aerial bombing or covert ground operations), and the limited reliability of eyewitnesses whose observations occur in the midst of highly intensive combat operations;
- the complex, dynamic nature of certain large-scale military operations involving many different forces and numerous attacks over several hours or days (*e.g.*, in the wide context of a battle it can be very difficult to identify the singular cause for damage to a structure — which party is directly responsible, which weaponry caused the damage, and which particular force was responsible for conducting the individual attack or even whether the damage was a result of a direct attack, shrapnel or other secondary causes);
- the inadvertent destruction of evidence during intense fighting, which often makes it difficult, if not impossible to determine which party was directly responsible for the damage caused (*e.g.*, whether damage was caused by an IDF attack, or Hamas booby-trapping or misfire), or to identify the circumstances surrounding an attack (*e.g.*, IDF fire aimed at a Hamas sniper firing from the minaret of a mosque or launching mortars from a civilian structure);

²⁶ See, *e.g.*, Turkel Report at 143, 154, 237.



- the failure of potential witnesses to come forward, because they fear retribution for cooperating with the IDF's investigation or for reporting on terrorist activity; and
- the concealing of evidence or planting of false evidence by adversaries (*e.g.*, Hamas has a record of removing evidence of its military activities within civilian terrain and of trying to present its militants killed as innocent civilians).

As a result of these various challenges and constraints, criminal investigations can take significant time and still fail to obtain evidence considered sufficient to warrant prosecution, either because of a lack of information or because of evidentiary obstacles to the admissibility of information gathered.²⁷ Nonetheless, Israel takes extensive steps to ensure that investigations are conducted as promptly and effectively as possible.

If an investigation progresses to prosecutorial review, additional challenges arise. As in civilian prosecutions, military prosecutors must carefully review all the evidence (both inculpatory and exculpatory) before deciding to take the significant step of bringing criminal charges. In addition, not all operational mistakes are indicative of criminal behaviour. Military prosecutors must assess conduct based on the circumstances known at the time of the decision at issue and strive to avoid the bias of hindsight or the convenience of effects-based condemnations. In evaluating alleged violations of the Law of Armed Conflict, the conduct must be considered from the perspective of the "reasonable commander" based on the information available at the time, not after the fact. Moreover, even if the investigators and prosecutors suspect that a violation of the law may have been committed, the prosecutors may nevertheless conclude — like civilian prosecutors — that the admissible evidence is insufficient to bring criminal charges that can withstand scrutiny in a criminal trial. In such cases, the IDF may still take internal disciplinary action against the personnel involved.²⁸

Notwithstanding these challenges, Israel is committed to investigating alleged misconduct and holding wrongdoers accountable, through criminal prosecutions or disciplinary action, as may be appropriate in each case.

²⁷ *Id.* at 141-142 (including footnotes 273-274).

²⁸ *Gaza Operation Investigations: An Update*, State of Israel (January 2010), available at http://mfa.gov.il/MFA_Graphics/MFA%20Gallery/Documents/GazaOperationInvestigationsUpdate.pdf; *Gaza Operation Investigations: Second Update*, State of Israel (July 2010), available at http://www.mfa.gov.il/MFA_Graphics/MFA%20Gallery/Documents/GazaUpdateJuly2010.pdf.



B. Civilian Review of the Military Justice System By Israel's Attorney General and Supreme Court

As a democratic country committed to the rule of law, Israel subjects the IDF's military justice system to civilian oversight.

1. Review by the Attorney General

The Attorney General of Israel, who heads the public prosecution system and is the chief legal advisor to the Israeli government, provides civilian supervision of the military justice system. The professional directives of the Attorney General bind all state authorities, including the IDF.

The Attorney General may review any decision of the MAG that the Attorney General considers to be of special public interest.²⁹ Moreover, by a written request to the Attorney General, a complainant or non-governmental organisation can challenge the MAG's decision whether to open a criminal investigation or to file an indictment in cases concerning alleged violations of the Law of Armed Conflict.

2. Review by the Supreme Court

The Israeli Supreme Court provides judicial review for the military justice system. Under the Military Justice Law, the Supreme Court may hear direct appeals from a judgment of the Military Court of Appeals "concerning an important, difficult, or innovative legal question."³⁰ Complainants or non-governmental organisations also may petition the Supreme Court, sitting as the High Court of Justice ("HCJ"), against a decision of the MAG or the Attorney General.³¹ The Supreme Court may review and reverse decisions of the MAG and the Attorney General, including decisions whether to open a criminal investigation, whether to file a criminal indictment, whether to bring certain charges, or whether to appeal a decision of the Military Courts.³²

²⁹ See, for example, *Avivit Atiyah v. Attorney General*, HCJ 4723/96 (29 July 1997), where the Israeli Supreme Court ruled that the Attorney General could order the Military Advocate General's Corps to change its position concerning whether to file a criminal indictment.

³⁰ Military Justice Law, §440I(a),(b).

³¹ Paragraph 15(D)(2) to the Basic Law: The Judiciary.

³² For example, the Supreme Court has overturned the MAG's decision not to file criminal charges against a high-ranking field commander, resulting in the filing of such charges and ultimately in the conviction of the commander. See *Jamal Abed al Kader Mahmoud Zofan et al. v. Military Advocate General*, HCJ 425/89 (1989). In another case, Supreme Court hearings prompted the MAG to open a military investigation into an incident previously overlooked.

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The scope of the Court’s review is very broad. According to the jurisprudence and practice of the HCJ, any interested party (including non-governmental organisations) — or any person (including those who are neither Israeli citizens nor residents) who is affected or potentially affected by the actions of a government authority (including the IDF or the Attorney General) — is entitled to petition the HCJ as a court of first instance on any claim that a government action or an action of the IDF is *ultra vires*, unlawful or substantially unreasonable. For example, in the midst of the 2014 Gaza Conflict, the HCJ reviewed a petition concerning the disclosure of information regarding detainees held by the IDF outside the Gaza Strip, and in recent years the HCJ reviewed the IDF’s early warning procedures, targeted killing policy, supply of fuel and electricity in the Gaza Strip, and investigation policy (which was upheld).³³

Israel’s Supreme Court has earned international respect and recognition for its jurisprudence, as well as for its independence in enforcing international law. Its landmark rulings in several cases related to the balancing of security and the protection of individuals are highly regarded by jurists and academic scholars of international law, and have been cited favourably by foreign courts, including the Supreme Court of Canada, the House of Lords in the United Kingdom, and the European Court of Justice.³⁴

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See *Brian Avery v. Military Advocate General*, HCJ 11343/04 (2005). In yet another case, the Supreme Court’s response to a petition arguing that the MAG should have charged a soldier and commander with more serious offenses than “unbecoming conduct” led to the MAG’s issuance of an amended indictment. See *Ashraf Abu Rahma et al. v. Military Advocate General*, HCJ 7195/08 (1 July 2009).

³³ See Turkel Report at 317 (citing HCJ 9132/07 *AlBassiouni v. Prime Minister* (unpublished, Jan. 30, 2008) (supply of fuel and electricity); HCJ 769/02 *The Public Committee Against Torture in Israel v. The Government of Israel*, 62(1) 507 (2006) (targeted killing policy); HCJ 3799/02 *Adalah – The Legal Center for Arab Minority Rights in Israel v. GOC Central Command, IDF*, 60(3) 67 (2005) (early warning system). See also HCJ 9594/03 *B’Tselem – The Israeli Information Center for Human Rights in the Occupied Territories v. Military Advocate-General* (Aug. 21, 2011) (upholding IDF investigations policy).

³⁴ See, e.g., *Application Under S. 83.28 of the Criminal Code*, 2004 SCC 42, ¶ 7 (Supreme Court of Canada 2004) (citing the “eloquent” statements of Israel’s Supreme Court on the importance of responding to terrorism within the rule of law); *A and others v. Secretary of State for the Home Department*, 2 A.C. 221, ¶ 150 (U.K. House of Lords 2005) (emphasizing importance of the U.K.’s “retain[ing] the moral high ground which an open democratic society enjoys,” and thereby “uphold[ing] the values encapsulated in the judgment of the Supreme Court of Israel in *Public Committee Against Torture in Israel v. Israel* . . . [that] “[a]lthough a democracy must often fight with one hand tied behind its back, it nonetheless has the upper hand.”) (citation omitted); *Kadi v. Council of the European Union*, 3 C.M.L.R. 41, ¶ AG 45 (European Court of Justice 2008) (quoting Supreme Court of Israel regarding importance of judicial oversight of political decisions, specifically that “[i]t is when the cannons roar that we especially need the laws. . . . It is an expression of the difference between a democratic state fighting for its life and the fighting of terrorists rising up against it. The state fights in the name of the law and in the name of upholding the law. The terrorists fight against the law, while violating it. The war against terrorism is also law’s war against those who rise up against it.”).



C. Review by an Independent Public Commission of Inquiry

The Government of Israel from time to time may establish independent public commissions of inquiry to review Israel's practices and policies.³⁵ Following the IDF's interdiction of vessels attempting to violate a naval blockade on May 31, 2010 (the "Flotilla Incident"), the Government created an independent public commission of inquiry headed by retired Supreme Court Justice Jacob Turkel.³⁶ The Turkel Commission included the late Professor Shabtai Rosenne, General (ret.) Amos Horev, Israeli law professor Miguel Deutch and former Ambassador Reuven Merhav, as well as international observers Lord David Trimble of Ireland, a Nobel Peace Prize winner and formerly First Minister of Northern Ireland; Brigadier-General (ret.) Kenneth Watkin of Canada, a former Judge Advocate General of the Canadian armed forces; and Professor Timothy McCormack of Australia, who serves as a special advisor to the Prosecutor of the International Criminal Court in the Hague).³⁷ The Commission was charged with assessing the legality of Israel's actions during the Flotilla Incident and evaluating Israel's procedures for examining and investigating alleged violations of the Law of Armed Conflict.³⁸

In February 2013 the Turkel Commission published a 476-page report, which Canadian Brigadier-General Watkin described as "an important reflection of the commitment to the Rule of Law" and the product of "considerable efforts to hear from a wide range of interested groups and individuals in addition to the Government witnesses," including testimony from Palestinians who "provided a reminder of the human impact of [Israel's] investigations."³⁹ According to Professor McCormack, this report "represents the first comprehensive and systematic analysis of the international law of national investigations."⁴⁰

³⁵ The Government Law, 5761–2001, LA 1780; The Commissions of Inquiry Law, 5729–1968, LA 548, at Article 1.

³⁶ Resolution No. 1796 of the 32nd Government, Appointment of an Independent Public Commission, Chaired by Supreme Court Justice (ret.) Jacob Turkel, to Examine the Maritime Incident of 31 May 2010 (Jun. 6, 2010).

³⁷ The Turkel Commission also benefitted from the contributions of several other reputable experts in the field of international law, including Professor Claus Krefß, Director of the Institute for International Peace and Security Law at the University of Cologne in Germany, and Professor Gabriella Blum, Rita E. Hauser Professor of Human Rights and Humanitarian Law at Harvard University. Professor Michael Schmitt, who was at the time the Chair of Public International Law at Durham University in the United Kingdom, also provided counsel to the Commission until his appointment in September 2011 as Chair of the International Law Department at the United States Naval War College. Turkel Report at 37-38.

³⁸ See Art. 5 of the Turkel Commission's Mandate, available in English at: www.mfa.gov.il/MFA/Government/Law/Legal+Issues+and+Rulings/Independent_Public_Commission_Maritime_Incident_31-May-2010.htm.

³⁹ Turkel Report at 24-26 (Observer Letter of Brigadier-General (ret.) Kenneth Watkin, Q.C.).

⁴⁰ Timothy McCormack, Shabtai Rosenne Memorial Lecture (26 Nov. 2014), at 18:45, available at <https://www.youtube.com/watch?v=UMAmSltyEOE>.



The Turkel Commission concluded that “the examination and investigation mechanisms in Israel for complaints and claims of violations of international humanitarian law and the methods they practice, generally comply with the obligations of the State of Israel under the rules of international law.”⁴¹ With respect to principles of independence, impartiality, effectiveness, thoroughness, promptness, and transparency, the Turkel Commission also compared Israel’s investigations system favourably to the systems of six Western nations (Australia, Canada, Germany, the Netherlands, the United Kingdom and the United States).⁴² In the words of Lord David Trimble, one of the Commission’s international observers, “taken as a whole, Israeli law and practice will stand comparison with the best in the world.”⁴³

Consistent with its mandate, the Turkel Commission made various recommendations for how Israel might further improve its system for examining and investigating alleged violations of the Law of Armed Conflict. The Commission emphasized that these recommendations “[do] not necessarily indicate flaws in the past, but rather [signify] the Commission’s aspiration to pave a way towards best practice in this field in the future.”⁴⁴

Israel already has implemented some of the recommendations of the Turkel Report, including the FFA Mechanism, as discussed in Sections A.2 above.⁴⁵ An inter-agency commission is addressing how to implement the balance of the recommendations and expects to conclude its work in the first half of 2015.

D. Examination and Investigation of Allegations Arising from the 2014 Gaza Conflict

The IDF is currently reviewing hundreds of complaints regarding its conduct of operations during the 2014 Gaza Conflict. These complaints have come from private complainants, the U.N., NGOs, international and local media, and IDF personnel. Indeed, the Military Advocate for Operational Affairs has requested the cooperation of certain NGOs.⁴⁶

⁴¹ Turkel Report at 49.

⁴² *Id.* at 152-264 (“Comparative Survey of Investigative Systems Relevant to Laws of Armed Conflict”).

⁴³ *Id.* at 22.

⁴⁴ *Id.* at 361.

⁴⁵ The establishment of the FFA Mechanism was fully coordinated with the Attorney General and was endorsed by Dr. Joseph Ciechanover, who heads the inter-agency commission responsible for implementing the recommendations of the Turkel Report.

⁴⁶ *See, e.g.*, Letter from Lt. Col. Ronen Hirsch, Military Advocate for Operational Matters, to Mr. Hagai El-Ad, B’Tselem Executive Director, regarding Examination of irregular incidents in Operation Protective Edge (Aug. 11,

[FOOTNOTE CONTINUED ON NEXT PAGE]



The MAG periodically publishes his decisions.⁴⁷ As of the date of this report, the following details have been released by the MAG: The FFA Mechanism had been provided approximately 100 incidents for examination so as to provide the MAG with sufficient information to decide whether there is a reasonable suspicion of criminal behaviour such that a criminal investigation should be opened. As of December 7, 2014, the MAG had announced that the FFA Mechanism had completed the examinations of approximately 50 incidents. The MAG ordered criminal investigations into five of these incidents, asked the FFA Mechanism to gather further information for an additional 11, and closed 9 after finding that the IDF's actions did not raise reasonable grounds for suspicion of criminal behaviour. As of December 7, 2014, the MAG was reviewing the remaining incidents. In addition, the MAG opened eight criminal investigations without a prior examination by the FFA Mechanism, based on allegations that *prima facie* raised reasonable suspicion of criminal misconduct.⁴⁸

This Section provides information regarding the examination and investigations of several specific incidents that took place during the 2014 Gaza Conflict. In deference to the integrity and independence of the processes underway in Israel, it would be premature to reach any final conclusions now, before those processes are complete.⁴⁹ Nonetheless, given extensive public discussion about these issues and the frequency with which public statements have preceded rather than followed the evidence, Israel has decided to provide preliminary information regarding some of the specific incidents examined. This information reflects only what the IDF knows thus far, and what can be released legally and without compromising the integrity and independence of the ongoing, thorough processes.

[FOOTNOTE CONTINUED FROM PREVIOUS PAGE]

2014), English translation available at

http://www.btselem.org/download/20140811_letter_from_mag_corps_regarding_protective_edge_investigations_eng.pdf. To the extent that external organisations have gathered information related to Operation Protective Edge, they should provide the information and any evidence on which it is based to Israel to facilitate those investigations.

⁴⁸ *Decisions of the IDF Military Advocate General regarding Exceptional Incidents that Occurred during Operation 'Protective Edge' – Update No. 2*, IDF, MAG Corps (7 Dec. 2014), available at <http://www.law.idf.il/163-6958-en/Patzar.aspx>. For an earlier report, see *Operation Protective Edge: Examinations and Investigation*, IDF, MAG Corps (10 Sept. 2014), available at <http://www.mag.idf.il/261-6858-en/Patzar.aspx?pos=13>.

⁴⁹ The U.N. Fact-Finding Mission on the Gaza Conflict that investigated allegations of IDF misconduct during Operation Cast Lead in 2008-2009 reached erroneous conclusions regarding intentionality based only on the fact of civilian casualties. The Chairman of the Committee, Justice Richard Goldstone, has since written: "If I had known then what I know now, the Goldstone Report would have been a different document." Richard Goldstone, *Reconsidering the Goldstone Report on Israel and war crimes*, Washington Post (Apr. 1, 2001), available at http://www.washingtonpost.com/opinions/reconsidering-the-goldstone-report-on-israel-and-war-crimes/2011/04/01/AFg111JC_story.html. Goldstone has also acknowledged that the final report of a U.N. Human Rights Council found that following Operation Cast Lead "Israel has dedicated significant resources to investigate over 400 allegations of operational misconduct in Gaza" while "the de facto authorities (i.e., Hamas) have not conducted any investigations into the launching of rocket and mortar attacks against Israel." *Id.*



The MAG Corps is making a substantial effort to ensure transparency in the process of examining and investigating exceptional incidents that allegedly occurred during the 2014 Gaza Conflict. To this end, the MAG periodically publishes his decisions with respect to individual incidents, holds press conferences to discuss such decisions as well as general processes, and meets with military attaché and other foreign dignitaries to discuss the examination and investigation process, as well as individual incidents. Given the nature of the issues involved, however, the extent of information the MAG Corps can disclose may unavoidably be limited by laws protecting the confidentiality of the FFA Mechanism report and of ongoing criminal investigations or by considerations concerning the publication of classified information.

An objective analysis of specific incidents where civilians were killed or protected property damaged during the 2014 Gaza Conflict must also take into account the realities of armed conflict and the applicable Law of Armed Conflict. Civilian casualties in wartime are tragic. Damage to civilian property and infrastructure is regrettable. But the Law of Armed Conflict does not condemn military actions simply because they resulted in such casualties or damage. Rather, the law focuses on whether the actions of commanders and soldiers complied with the law at the time of the attack, including whether operations were aimed at achieving legitimate military objectives and were conducted in accordance with the obligations of distinction, proportionality, and precautions. Rooted in the idea of the “reasonable commander,” the legal basis is based on the circumstances at the time of the incident in light of information reasonably available. Thus, for example, targeting decisions that result in civilian casualties do not, *ipso facto*, indicate a violation of the Law of Armed Conflict, whereas the deliberate targeting of civilians would indicate such a violation. Because civilian casualties may unfortunately be unavoidable when engaged in hostilities against an enemy like Hamas in urban terrain, the line between these two conclusions will often be intensely fact contingent.

Criminal Investigations. As of the date of this report, the MAG has opened 13 criminal investigations. Eight of these criminal investigations were opened without a prior examination by the FFA Mechanism, based on allegations that *prima facie* raised reasonable suspicion of criminal misconduct by IDF forces, including allegations regarding the shooting of a woman in the Dahaniya area on July 18, 2014; allegations regarding looting (the stealing of money) in the Gaza Strip on July 20, 2014; allegations regarding the mistreatment of a 17-year old held by IDF forces in Khirbeit Haza’a between July 23 and 27, 2014; allegations regarding the death of a man carrying a white flag and the use of his family as human shields in Kuhza’a on July 25, 2014; and allegations regarding four instances of looting unoccupied property in Khuza’a and Khan Yunis in the second half of July 2014.



Five of the criminal investigations opened thus far are based on initial examination by the FFA Mechanism including allegations regarding the death of four children on the Gaza Strip coast on July 16, 2014; allegations regarding 15 civilian casualties resulting from a strike in the vicinity of an UNRWA school in Beit Hanoun on July 24, 2014; allegations regarding the death of an ambulance driver in the Khan Yunis area on July 25, 2014; allegations regarding the death of an ambulance driver in the vicinity of a hospital in Beit Hanoun on July 25, 2014; and allegations regarding the deaths of 27 civilians as a result of strikes on the Abu-Jama House in Khan Yunis on 21 July 2014. Information about the MAG's decision to open these investigations is available on the MAG's website.⁵⁰

Specific Cases Examined But Closed For Lack of Reasonable Suspicion of a Legal Violation. After review by the FFA Mechanism, the MAG has closed certain cases where the evidence did not raise a reasonable suspicion of a violation of Israeli law or the Law of Armed Conflict. Israel deeply regrets the civilian deaths, injuries, and property damage that occurred in some of these incidents. But the harm to civilians and civilian property in these cases does not raise a suspicion of unlawful IDF conduct that justifies a criminal investigation. Accordingly, in these cases there was no basis for bringing criminal or disciplinary proceedings.

By way of example, these cases include:

- Allegations Concerning an Aerial Strike on a Vehicle Marked "TV" in Gaza City on July 9, 2014: The MAG Corps received reports, as well as correspondence from NGOs, alleging that an aerial strike was carried out in the Rimael neighbourhood of Gaza City on July 9, 2014, against a vehicle marked "TV," and which resulted in the death of one person alleged to be a journalist (Ahmed Abdullah Mahmoud Shahab) and in the injury of eight additional persons also alleged to be journalists. Subsequently, and in accordance with the MAG's investigation policy, the incident was referred to the FFA Mechanism.

According to the factual findings and materials collated by the FFA Mechanism and presented to the MAG, the strike was carried out against a vehicle, which intelligence information and direct evidence (specifically, real-time aerial surveillance) indicated was being used to transport weaponry intended to be used against IDF forces or the Israeli

⁵⁰ *Decisions of the IDF Military Advocate General regarding Exceptional Incidents that Occurred during Operation 'Protective Edge' – Update No. 2*, IDF, MAG Corps (7 Dec. 2014), available at <http://www.law.idf.il/163-6958-en/Patzar.aspx>; see also *Operation Protective Edge: Examinations and Investigation*, IDF, MAG Corps (10 Sept. 2014), available at <http://www.mag.idf.il/261-6858-en/Patzar.aspx?pos=13>.



civilian population that same day, and whose passengers were involved in the hostilities. It appears that the vehicle was marked “TV” in order to mask the military use made of the vehicle to transport weaponry.

The MAG found that the targeting process accorded with Israeli domestic law and international law requirements. The attack was carried out against a military objective, in accordance with the requirements of the principle of proportionality, and the decision to carry out the attack was made by the authorities authorized to do so. It should be noted that, according to the factual findings, at the time of the strike the IDF forces could not discern whether the vehicle was marked “TV.” In any event, in light of the military use made of the vehicle for the purposes of transporting weaponry, the marking of the vehicle did not affect the lawfulness of the strike under international law. The MAG further found that the targeting process was carried out after undertaking various precautions with significant efforts to minimise the possibility of civilian harm. Such, the strike on the vehicle was at one point delayed, due to the concern that civilians in its vicinity could be harmed. Furthermore, no supporting evidence was found indicating harm caused to persons other than Shahab.

In light of the above, the MAG did not find that the actions of the IDF forces raised grounds for a reasonable suspicion of criminal misconduct. As a result, the MAG ordered the case to be closed, without opening a criminal investigation or ordering further action against those involved in the incident.

- Allegation Concerning a Strike on a Red Crescent Station in Jabalya and Harm Caused to Red Crescent Personnel on July 9, 2014: The MAG Corps received allegations from a number of NGOs that in the nighttime hours of July 9, 2014, a number of persons working at a Red Crescent station were wounded (the various reports differ with regard to the number of wounded persons, with allegations starting from three wounded and varying up to 15 persons, and also differ with regard to the severity of their wounds, with some allegations of minor wounds caused and others claiming moderate wounds caused) and three ambulances were damaged, allegedly as a result of an IDF strike on agricultural property near the station. Subsequently, in accordance with the MAG’s investigation policy, the incident was referred to the FFA Mechanism.

According to the factual findings collated by the FFA Mechanism and presented to the MAG, Palestinian terrorist organisations had positioned rockets aimed at Israel in underground rocket launching sites a few tens of meters away from the Red Crescent



station. The location of the station was known to the IDF forces and was marked in the IDF's operational systems as a "sensitive site," which receive special consideration. The rockets and the launchers that were hidden in the underground launch site next to the station were attacked by the IDF, together with an effort taken to avoid any harm to civilians and to the nearby Red Crescent station. This included selecting the time for attack (at nighttime) and employing appropriate munitions, in an effort to ensure that any damage caused to adjacent buildings, and persons potentially located inside them, would be minor, at most. In actuality, it appears that besides the destruction of the military target, incidental damage was caused to the Red Crescent station, workers inside the station were possibly injured, and ambulances at the location suffered indirect damage resulting from the attack — seemingly as a result of objects that were thrown by the force of the blast.

After reviewing the factual findings and the material collated by the FFA Mechanism, the MAG found that the targeting process accorded with Israeli domestic law and international law requirements, and included significant efforts to minimise harm to civilians. The MAG further found that the damage caused to the Red Crescent station was unavoidable considering the proximity of the rockets placed by the Palestinian terror organisations only a few tens of meters from the station.

In light of the above, the MAG did not find that the actions of the IDF forces raised grounds for a reasonable suspicion of criminal misconduct. As a result, the MAG ordered the case to be closed, without opening a criminal investigation or ordering further action against those involved in the incident.

At the same time, the MAG recommended to the relevant IDF operational entities that they consider specific amendments to the target planning process, which may assist in further minimising the potential collateral damage resulting from IDF strikes on military objectives located in close proximity to sensitive sites.

- Allegations Concerning Two Female Casualties at the "Alambra Association" in Beit Lehia on July 12, 2014: According to correspondence and reports from various NGOs, on July 12, 2014, two women were killed and four others injured as a result of an IDF aerial strike on a care centre for the mentally and physically disabled, belonging to the "Alambra Association," in Beit Lehia. As a result, and in accordance with the MAG's investigation policy, it was decided to refer the incident for examination by the FFA Mechanism.



According to the factual findings and materials collated by the FFA Mechanism and presented to the MAG, the strike was directed at a weapons depot located inside the residential home of a senior Hamas commander, in a building comprising four apartments. While the operating forces were aware of the existence of a kindergarten in the same building, close to the weapons depot, there was no information indicating the existence of a care centre.

Prior to the attack a number of precautionary measures were undertaken in order to minimise potential civilian harm — including several attempts to telephone the residents of the building and the firing of two warning projectiles towards the structure (as part of the “knock on the roof” procedure). No reaction was identified by the residents, and no presence of persons at the site was discerned prior to the attack. As an additional precaution, the attack was carried out late at night, in order to avoid any possible harm to children attending the kindergarten during the day.

The findings further indicated that at the time the attack was decided upon, the operational assessment concluded that, as none of the precautionary measures resulted in any response, no civilians were present and no civilians were expected to be harmed as a result of the attack.

In light of these factual findings, the MAG found that the targeting process followed in this case accorded with Israeli domestic law and international law requirements. The attack was directed against a military objective, while adhering to the requirements of the principle of proportionality, and the decision to attack was made by the authorities authorized to do so. Further, the MAG found that the attack was carried out after a number of precautions were undertaken intended to minimise the potential for civilian harm, and that the professional assessment at the time of the attack — that civilians would not be harmed as a result of the attack — was not unreasonable under the circumstances. Although seemingly civilians were harmed as a result of the attack, this is indeed a regrettable result, but it does not affect its legality post facto.

In light of the above, the MAG did not find that the actions of the IDF forces raised grounds for a reasonable suspicion of criminal misconduct. As a result, the MAG ordered the case to be closed, without opening a criminal investigation or ordering further action against those involved in the incident.



- Allegation Concerning a Strike on the Al-Shifa Hospital and a Park in the Shati Refugee Camp in the Gaza Strip on July 28, 2014: Various media reports alleged that on July 28, 2014, an incident occurred involving a strike on medical clinics belonging to the Al-Shifa Hospital, as well as a strike on a park where children were present in the Shati Refugee Camp, and as a result of which ten persons (including nine children) were killed and tens injured. Some of these reports alleged that the strikes were carried out by the IDF. As a result, and in accordance with the MAG's investigation policy, it was decided to refer the incident for examination by the FFA Mechanism.

Following a thorough review conducted by the FFA Mechanism, such a strike by IDF forces could not be identified. However, Israel's technical systems recorded in real-time the path of a salvo of missiles fired from within the Gaza Strip, seemingly by Hamas or Palestinian Islamic Jihad, which landed in the medical clinics and in the Shati Refugee Camp at the time of the alleged incident. Under these circumstances, and in light of the fact that the strike on the hospital was the result of rocket fire from Palestinian terrorist organisations, the MAG ordered the case to be closed.

Information regarding these and other cases is available on the MAG's website.⁵¹ If additional relevant information becomes available after a case has been closed, the case may be re-opened.⁵²

⁵¹ *See id.*

⁵² There is precedent for the MAG re-opening cases. For example, following Operation Cast Lead the MAG ordered the Israel Air Force to re-open an examination into an incident concerning the El-Bader flour mill after various news media reported in February 2010 that the U.N. was in possession of evidence that contradicted the findings of Israel's initial examination. The MAG also held a meeting with the U.N. representatives who had visited the site of the mill. After reviewing the materials collated in the context of this additional examination, the MAG confirmed that the flour mill had not been intentionally targeted by the Israel Air Force. Accordingly, the MAG determined that there was no basis for additional proceedings in this matter. The MAG periodically published details regarding the progress of the examination and the decisions reached, demonstrating the IDF's commitment to transparency and to properly assessing information in its possession. *See Gaza Operation Investigations: An Update*, State of Israel (January 2010), at pages 41-45, available at http://mfa.gov.il/MFA_Graphics/MFA%20Gallery/Documents/GazaOperationInvestigationsUpdate.pdf; *Gaza Operation Investigations: Second Update*, State of Israel (July 2010), at pages 30-31, available at http://www.mfa.gov.il/MFA_Graphics/MFA%20Gallery/Documents/GazaUpdateJuly2010.pdf.