



## The Turkel Report: A preliminary analysis 28 February 2013

*The Turkel Report, which includes important evidence and recommendations, may become a dead letter if the international community does not act to ensure that it contributes to the pursuance of accountability vis-a-vis Israeli violations of international law and to justice for victims.*

On 6 February 2013, the Israeli government-appointed Turkel Committee published the [second part of its report](#). The report examines whether Israeli investigations of claims of war crimes and breaches of international law conform to international law standards. The Committee affirms that it does. However, it also details no less than 18 recommendations to improve Israel's investigation systems.

Adalah, the Public Committee Against Torture in Israel (PCATI) and Physicians for Human Rights-Israel (PHR-I) call on the Israeli government to adopt and implement these recommendations. We similarly call on the international community to demand Israel's strict compliance with international norms regarding the investigation of alleged violations of human rights and international humanitarian law (IHL).

The Turkel Committee, appointed in June 2010, was charged with investigating the legality of the Israeli closure and maritime blockade of Gaza, and the legality of the Israeli navy's raid on a flotilla carrying aid to Gaza in May 2010. The Israeli raid ended in the deaths of nine Turkish activists, multiple injuries and the arrests and detention of other flotilla participants. The second, broader part of the Committee's mandate, was to determine whether Israeli investigations of claims of war crimes and breaches of international law conform to international law standards.

The latter subject was assigned to the Committee against the backdrop of growing initiatives by civil society organizations, individuals and UN-appointed bodies to criticize the manner in which Israel investigates human rights and IHL violations alleged to have been committed by its forces. The second part of the Turkel Committee's [report](#), (over 400 pages long), is a detailed examination of how the Israeli military, police, and the Israel Security Agency (ISA or Shin Bet), which is charged, among other things, with interrogating individuals considered to be security suspects by Israel, conduct investigations of complaints lodged by or behalf of civilians.

While the Committee found that Israel's investigatory systems conformed to international standards, the actual, specific findings and recommendations paint a very different picture. The Committee's findings regarding Israeli failings in objectively and sufficiently investigating complaints of Israeli violations – including targeting civilians, indiscriminate and disproportionate attacks on civilians, the use of human shields, massive destruction of homes and infrastructure, torture, ill-treatment of detainees, illegal arrests of Palestinians, abusive and excessive use of administrative detention, and settler violence – serve as both an indictment and as an unbiased (from the official viewpoint of Israel) call to action. The fact that the Committee made these 18 recommendations essentially confirms the criticisms voiced by human rights organizations over the years regarding the bias and inadequacy of Israel's investigatory mechanisms and we therefore call on Israel to implement them.

The recommendations made by the Committee include:

- Initiating legislation for all international law offenses that do not have a corresponding domestic offense in Israeli criminal law, for example, the absolute prohibition of torture and inhuman and degrading treatment

- Enacting legislation to impose direct criminal liability on military commanders and civilian superiors where they did not take all reasonable measures to prevent offenses committed by their subordinates
- Transferring the role of the ISA Interrogatee Complaints Comptroller from the ISA to the PIID at the Ministry of Justice
- The full videotaping of all ISA interrogations, in accordance with rules that will be determined by the AG in coordination with the head of the ISA
- Strengthening the status and independence of the Chief Military Prosecutor (CMP) because of the dual hat of the MAG
- Implementing reporting procedures, including the documentation of the scene of an incident, the seizure and storing of all exhibits and documents that may assist the examination and investigation
- Implementing a strict documentation procedure for all examination and investigation actions carried out in a file and for all the decisions made, especially in cases involving investigations of alleged violations of IHL
- Establishing a fact-finding assessment mechanism with a special team which should form the basis for the MAG's decision as to whether an investigation is necessary
- Establishing a timeframe of a few weeks for the decision of whether to open an investigation and set a maximum period of time to adopt legal or disciplinary measures or to close the case obligation on the MAG to reason his decision not to open an investigation and apply the arrangements provided in the Rights of Victims of Crime Law – 2001.

However, the three undersigned organizations while endorsing the recommendations of the meticulously researched report is, consider its impartiality to be marred by its apparent purpose, namely to shield Israeli suspects of war crimes and the laws of war from prosecution abroad. While the report describes the shortcomings of the system in detail, its authors nevertheless conclude that current Israeli investigations mechanisms are compatible with international law, in an apparent attempt to provide immunity for Israel for its past actions.

A further cause for concern is that the Committee's recommendations are not legally binding and there is no legal obligation on the part of the Israeli government to adopt them. Like many other government-appointed committees and Commissions of Inquiry in Israel, its recommendations may remain ink on paper for years to come. The obstacles preventing Israel from conducting effective investigations and criminal procedures regarding human rights violations of Palestinians have always been more to do with a lack of political will rather than professional competency, capacity or knowledge.

If Israel adopts the report's recommendations, they would form the basis for the introduction of serious improvements in the local investigative process and in domestic justice mechanisms for dealing with alleged war crimes and gross human rights violations in situations of conflict and Occupation. However, if the report is to support the ultimate aim of accountability, justice, and protection from impunity, the international community must establish clear mechanisms to ensure that Israel now carries out the effective local investigations that have been denied to Palestinian victims for years, failing which international justice mechanisms will likely continue to be pursued.

This coalition:

- Supports the adoption of the Turkel Report's recommendations by Israel;
- Reminds the EU and the wider international community that Israel's past record of heeding recommendations made by commissions of inquiry is poor; and
- Appeals to the international community to apply a strict level of scrutiny, not relinquishing its demand for Israeli compliance with international human rights and humanitarian law, and to demand the implementation of the Turkel Report's recommendations.