

Israeli officer court-martialled for refusing order to target civilians

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An Israeli military intelligence officer has been court-martialled for refusing to carry out an order that blatantly defied both international laws and Israel's own statutes and would have led to the certain death of countless Palestinian civilians.

The incident highlights the criminal nature of Israel's longstanding and murderous campaign against Palestinian civilians in the territories occupied illegally since 1967 and the fact that it is government-directed with the military authorities fully aware that their actions are illegal. It further reveals how the security forces work to ensure that their attacks kill as many people as possible and provides irrefutable evidence of the crimes against humanity committed by the Israeli state.

According to a report of the court-martial in the Israeli newspaper *Ma'ariv*, following a Palestinian suicide attack in Tel Aviv in January that killed 23 people the Israeli government ordered the Air Force to bomb a large target in Nablus, a Palestinian city in the West Bank.

The military intelligence officer on duty at the Corps Unit 8200, identified only as Lieutenant A, on being asked to provide information in preparation for the aerial attack, refused to do so. He contacted the commander of the Unit, Brigadier General Y, and told him that the order he had received from General Staff headquarters and the Air Force was "problematic". This was because he had been asked to identify a Fatah building and find out how many people were likely to be inside at the time of the forthcoming attack. He became suspicious, as intelligence would normally be asked to identify specific individuals whom the army wanted to target and discover their whereabouts.

According to *Ma'ariv*, Lieutenant A took this to mean that the Israeli military intended "to cause random casualties, and he balked at the order", since innocent people would be hurt. The order was clearly illegal and he could not carry it out. But the Brigadier instructed him to

carry out the order, despite his concerns.

Lieutenant A then sought out another officer, Lt Colonel K, who was commander of the district responsible for the base and informed him that he could not carry out of the order because it was illegal. When he received the information required for the bombardment, he did not transmit it. Without the information, the attack could not go ahead and ultimately it was abandoned. Only then did he pass on the information.

At the investigation carried out by the Unit's commanding officers, Lieutenant A stated in his defence that he refused to carry out the order because it was "patently illegal". He cited the law enacted after the Kafr Kassem massacre of 47 Arabs by Israeli border police in 1956, which outlawed the harming of innocent people by the armed forces.

His defence caused consternation among the commanding officers and they moved quickly to stop the case from getting out of their control. They conferred with the Judge Advocate General and, instead of jailing Lieutenant A as is normal in cases of disobedience, dismissed him from active duty and transferred him to administrative duties in central Israel. The officers clearly feared that if he were more severely disciplined, he would go public and reveal further sensitive information and create a huge political embarrassment for themselves, the security forces and the government.

The Unit's commanding officers, Brigadier General Y and Lieutenant Colonel K, as well as Colonel D, Lieutenant Colonel K's commander, were merely reprimanded—the equivalent of a slap across the wrists.

The Israel Defence Forces (IDF) has refused to comment further on the matter, stating only, "An intelligence officer was relieved of his duty after refusing to carry out a direct order of his commanders which harmed an operational activity of the Israel Defence Forces. The incident was fully investigated and the

necessary conclusions were made.”

Perhaps even more telling than this evidence of Israel’s criminality and attempted cover up, has been the silence of the world’s press that daily castigate Iraqi dictator Saddam Hussein’s crimes. It got barely a mention.

Nevertheless, the incident has divided Unit 8200, to which Lieutenant A belonged, and indeed the wider Israeli military and intelligence community.

The unit’s commander issued instructions that no members of the unit could refuse an order on the grounds that it was illegal, since IDF Intelligence plays no direct role in attacking Palestinians. Furthermore, the only people allowed to make a decision not to attack are pilots or other soldiers, and not IDF Intelligence personnel. But junior officers repudiated this saying, “We are taught that law says it is illegal to kill except in very specific circumstances. This case is being widely talked about in the army now and there’s a lot of people who think he was right to do what he did,” said one officer. “You do not have to be the trigger man to be guilty of a crime.”

Another colleague said, “We can not accept the dismissal. Many stand behind Lieutenant A. He is an excellent officer who is very committed to his mission, but here there was a real case of a patently illegal law.... From the time of boot camp, soldiers are taught to protest against patently illegal orders and that is exactly what he did, but the officers didn’t listen to him.”

The Israeli army’s top law officer has been assigned to investigate the legality of the incident. A statement by the military at the end of last year insisted that every shooting of an innocent Palestinian must be investigated within 72 hours, though soldiers continue to receive light sentences for such actions.

Ma’ariv cited senior officers as saying, “If Lieutenant A begins legal procedures against the decision to dismiss him, that might arouse a problem in the IDF. One must remember that in July the International Criminal Court (ICC) went into operation, whose rules the IDF is supposed to be committed to. The issue of a patently illegal order is very complex and if it were to be decided in this case that the officer truly thought that in the wake of his deeds innocent people would be hurt, it would have far-reaching effects on all IDF activity.”

According to the law, anyone in the chain of operation of the illegal action and not only those who fire the missile, could be put on trial, and therefore the issue of a patently illegal order is also relevant to Unit 8200.

It should be noted that when the ICC was voted for by 122 nations in Rome in July 1998, Israel did not

immediately sign up to it. The then Likud government under Benjamin Netanyahu voted against it protesting the Rome conference’s agreement to make settlement of the Occupied Territories a war crime. The statute was not retrospective, however, so Israel’s fears that its leaders might be put on trial were misplaced.

News of the trial led to a protest outside Unit 8200’s base by members of *Courage to Refuse*, a growing group of reserve combat troops (presently 523), who are refusing to serve in the illegally occupied territories.

Chen Alon, reserve major and spokesman, said, “What we have here is a new phenomenon where a duty soldier, not a reserve soldier, is now refusing a specific order which he believes is illegal. We think that what he has done is very brave and we feel obliged to support him. From what we hear, he is a very good intelligence officer. His commanders didn’t want to try him so they moved him to one side.”

Courage to Refuse member, Lt. David Zonshein, sent to jail for conscientious objection, stated that going to jail is “the best and most important duty a soldier in the army can perform today for Israel”.

In December, Israel’s High Court ruled that soldiers can not refuse to serve in the West Bank or Gaza Strip. Members of the armed forces are obliged to serve wherever their commanders send them, the panel decreed, “Yesterday the objection was to [military activity in] Lebanon, today it is to [the West Bank], tomorrow it will be to evacuating settlements.”

The tribunal evaded the conscientious objectors’ request that it rule on whether Israel has a right to be in the Occupied Territories. The court ruled that Israel’s “fight against terrorism” outweighed reservists’ moral beliefs. The reservists had argued that it would be illegal for them to obey orders that maintain “a system which consists entirely of collective punishment of a civilian population”.



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