

Reflections on RUSI's Tactical Lessons from IDF Operations in Gaza, 2023

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In July, Jack Watling and Nick Reynolds published a paper entitled “[Tactical Lessons from Israel Defense Forces Operations in Gaza, 2023](#)” on behalf of the Royal United Services Institute (RUSI). Founded in 1831, RUSI is the world’s oldest and the UK’s leading defense and security think tank. This study of Israel Defense Forces (IDF) lessons learned in their campaign against Hamas in Gaza presents important considerations applicable to combat in urban environments with sizeable numbers of displaced civilians, and significant challenges in delivery of humanitarian support operations. While reading the full report is worthwhile, here we seek to extract and analyze issues relevant to legal advisors, highlight key takeaways, and present practical recommendations derived therefrom.

The RUSI report focuses on tactics, force structure, capabilities, and operational design with the intent of highlighting tactical lessons that have broad applicability. It also discusses problems that drove tactical adaptation in the field. Neither its authors, nor we, attempt to assess or comment on the efficacy of the IDF’s operational plan or goals, and we do not take a position on the ethical or political debate surrounding the operations. The RUSI report

authors relied on 44 core interviews with strategic, operational, and tactical level IDF commanders and brigade and battalion staff members. They did not interview any Hamas personnel.

The major issues of interest to legal advisors concern humanitarian support operations, questions regarding what echelons of command require increased legal support or training, the impact that fighting in urban terrain has on proportionality assessments, the complexities of humanitarian support operations, and issues surrounding personal cell phones on the battlefield. We consider these issues in turn.

Embedding Legal Assets

The IDF found that maneuver units operating in contiguous boundaries in a close-combat urban environment increased the risk of accidental harm caused to the IDF's own forces. For instance, fragmentation from one unit's heavy weapons might cross into another friendly unit's sector, causing fratricide. In response, the IDF adopted non-contiguous unit boundaries and placed gaps between units advancing on the same/parallel axis. While addressing the fratricide concern, the IDF found this modified scheme of maneuver required that combined arms elements were furnished support down to the platoon level (RUSI report, p. 1,15).

The increased fires and intelligence assets, such as unmanned aircraft systems (UAS), enhanced the lowest echelons' tactical flexibility, but increased risks related to positive identification and collateral damage pertinent to proportionality assessments. Further exacerbating these risks was the constant and dynamic movement of displaced civilians during operations.

These considerations raise two questions. First, where are IDF legal assets located, and to what extent are they available to support platoon level operations, including strikes? Second, because there are not enough legal assets to accompany each platoon, what legal training should be provided to platoon-level leaders before urban conflict?

Article 82 of Additional Protocol I (AP I) to the Geneva Conventions requires that the parties to an armed conflict "shall ensure that legal advisors are available, when necessary, to advise military commanders at the appropriate level on the application of the Conventions and this protocol and on the appropriate instruction to be given to the armed forces on this subject." We note that while not a party to AP I, the U.S. functionally adopts this provision in the Department of Defense Law of War Manual (§ 18.5.1.).

From a legal compliance perspective, Article 82 of AP I provides parties with discretion to determine the "appropriate level" to assign legal advisors in support of operations. However, as the late Yoram Dinstein thoroughly discussed in 2021, the recent preference and State practice, including for Israel, is to provide legal advisors at the lowest practical echelon.

The tactical situation in Gaza has reinforced recent State practice and Professor Dinstein's view. The United States and its allies should prepare for conflict scenarios where fires and intelligence assets and authorities are delegated down to echelons far below those experienced during prior counter-insurgency campaigns. Legal advisors should be assigned accordingly.

Realistically however, the supply of legal advisors simply cannot meet a demand that they provide direct support at the platoon level. For instance, U.S. legal advisors are generally assigned at the brigade level, with enlisted paralegal support at battalions. UK legal advisors typically operate at the division level without paralegal support. Consequently, legal advisors should emphasize the need to provide robust legal training to platoon level leaders, who may be entrusted with target engagement authority without the benefit of an embedded judge advocate.

Advances in Air-Delivered Fires and the Impact on Proportionality

Advances in the IDF's air-delivered fires pose a significant risk and challenge for Hamas members (RUSI report, p. 2). To counter the IDF's technological advantage, the IDF found that Hamas refrained from operating on higher floors of high-rise buildings. Rather, they opted to maneuver from lower floors. This tactical shift prompted the IDF to use higher payload munitions to successfully prosecute those targets. However, the application of higher payload air-delivered fires to target ground-level floors in urban environments creates additional challenges for proportionality assessments.

AP I, Article 51(5)(b) and customary international law require commanders to determine whether the foreseeable incidental "loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, would be excessive in relation to the concrete and direct military advantage anticipated." While the proportionality rule offers fertile ground for analysis, it essentially requires commanders to balance the military benefit of the attack against the foreseeable civilian harm to ensure that the civilian harm is not excessive. Hamas members shifting from using top to bottom floors increases the foreseeable incidental harm that commanders must consider.

If Hamas operated on top floors, IDF could target them using lower collateral munitions which could confine the expected collateral damage area and mitigate the risk of building collapse. Due to the technological advances in weaponry, IDF commanders could avoid factoring in a significant degree of collateral damage on the floors below. Additionally, by confining the foreseeable collateral damage area to a relatively small portion of the building, the commander's target intelligence professionals would be more likely to provide an accurate and timely assessment of the expected collateral damage.

When targeting Hamas members on lower levels, IDF commanders must anticipate increased incidental civilian harm. The use of higher payload munitions penetrating each floor of a high rise and detonating on the ground floor target opens the collateral damage aperture to every floor of the building and increases the foreseeable risk of a total building collapse. Further, the commander's target intelligence professionals would likely be less certain about the collateral damage estimate of a munition penetrating each floor of an entire building before detonating at or near the ground floor, as compared to one room or floor near the top of the building, especially in a time-constrained dynamic targeting situation.

Ultimately, Hamas's simple tactical shift creates additional collateral damage concerns that IDF commanders must consider in order to comply with the law of armed conflict (LOAC). These concerns may require creative targeting solutions and/or considerable patience and restraint. Regardless, legal advisors should be prepared to advise commanders in such circumstances.

The Complexities of Humanitarian Support Operations

The RUSI study highlights multiple challenges that demonstrate the complexity of humanitarian support operations (p. 33). While the nuanced legal framework is more thoroughly explained [here](#), many practical concerns (from importation to distribution) must be considered by legal advisors as they assist commanders and staff.

The report found that the "most contentious part of the inflow of trucks was who to trust to search for incoming military material destined for Hamas" (p. 34). Citing the large amounts of military material smuggled into Gaza before the October 7 attack, the IDF were wary of those who had previously managed border crossings and inspections. This mistrust led to poor coordination with aid organizations. Additionally, aid agencies reported uncertainty as to what constituted "dual use" items that the IDF would prevent from being shipped (p. 34). Collectively, these factors inhibited the flow of humanitarian aid into Gaza.

The report also notes multiple issues related to facilitating humanitarian aid into Hamas-controlled areas of Gaza (p. 34-36). Most obvious was the IDF's concern that Hamas would steal or misappropriate the supplies to sustain its own forces. More strategically, the report highlights the IDF's concern that enabling Hamas to control and distribute humanitarian aid provided Hamas with perceived legitimacy as a governing power. These conflicting imperatives operate simultaneously. Therefore, legal advisors should be prepared to assist commanders in navigating through this tension to balance military objectives with humanitarian support responsibilities.

The report also amplifies the grim reality that mass levels of food insecurity and starvation can lead to desperation violence in and around distribution centers (p. 34). Legal advisors, planners, and commanders must remain aware of this dynamic and take appropriate

measures to mitigate the risk of violence and criminality in the execution of humanitarian support operations.

Civilian Harm Estimates and Cell Phone Usage During Detention Operations

The report acknowledges that the IDF has largely failed in the information domain (p. 30-32). Specifically, the IDF's failure to proactively release its estimates of civilian casualties associated with its operations has provided the Gaza Health Ministry (controlled by Hamas) to be the sole source of civilian casualty data. While the IDF has periodically offered compelling evidence undermining the Health Ministry's statistics, it has not adopted a proactive release posture. Thus, the Health Ministry, despite credibility concerns, remains the only source of civilian casualty data.

As the U.S. Department of Defense continues to develop its Civilian Harm Mitigation and Response program, the IDF's experience in Gaza should inform the need to rapidly and proactively release civilian harm assessments, even if only as a preliminary estimate, pending a more fulsome inquiry or investigation. In the area of civilian harm, quick and transparent responses can bolster strategic legitimacy and prevent degradation in the information environment.

Finally, the report acknowledges that the use of mobile phones and internet by IDF personnel has been a "sustained issue" during detention operations (p. 31). The ubiquity of cell phones, social media, and the growing cultural tendency to film a wide variety of events, has made the filming and publishing of content relating to detainees relatively common. While outside the scope of the RUSI report, we also note other incidents involving IDF personnel filming and posting apparent unlawful acts. This undisciplined dynamic carries the potential to inflict significant harm in the information environment.

Aside from the strategic risks associated with filming detainees, legal advisors should be prepared to advise commanders and soldiers regarding the prohibition enshrined in Article 13 of the Third Geneva Convention (GC III) on exposing prisoners of war "to public curiosity." While some may note that GC III applies only in the context of an international armed conflict, advisors should be armed with the common Article 3 prohibition of conduct constituting "outrages upon personal dignity, in particular humiliating and degrading treatment." Legal advisors should zealously impress upon commanders that not only does filming detainees undermine information advantage, it may also constitute a breach of the Geneva Conventions.

Conclusion

From a legal and operational perspective, much has and will be written about the conflict in Gaza. This post identifies the key legal implications and takeaways derived from the tactical developments contained in the RUSI report. Legal advisors should continue to monitor

similar tactical publications and extract legal issues, enhance understanding, and engage in dialogue with commanders and operators to ensure LOAC compliance as battlefield conditions evolve.

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