

Obama comes to aid of Israel over UN war crimes charges

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An authoritative and highly critical United Nations inquiry released last week concluded that Israel “committed actions amounting to war crimes, possibly crimes against humanity” during its three-week offensive against Gaza in December last year.

The report is one of the most damning ever made of Israel’s government and armed forces. Whereas in 1982, Israel betrayed its duty to protect the Palestinian refugees in Sabra and Shatilla in Beirut and was indirectly responsible for the massacre of more than 800 people by its Phalange allies, this time Israel was the direct perpetrator of war crimes.

The inquiry recommended that the UN Security Council call on Israel to conduct its own independent investigations into the military’s conduct, and that the council refer the findings to the International Criminal Court if it fails to do so within six months. The ICC is a treaty body set up to try war crimes and is separate from the International Court of Justice, a UN body to settle disputes between countries.

The report predictably elicited a furious counteroffensive from Israel, denouncing its findings. The campaign was waged throughout the media, including in the nominally liberal press. Britain’s *Guardian*, for example, gave space to Dan Koski, who works for an organisation dedicated to countering the arguments of human rights organisations critical of Israel, to mount a defence of Israel’s actions.

But Tel Aviv’s success in avoiding accountability for its criminal actions rests more properly on the active support of the United States and silent complicity of the major European powers, all of whom are anxious to avoid being brought to book for their own contempt for international law. The Security Council—dominated as it is by the US and the European powers that hold the power of veto—was the only body that could refer the case to the ICC, as Israel is not a signatory to the court.

The inquiry was forced upon the UN following international condemnation of Israel’s disproportionate and brutal force against an essentially unarmed population.

Israel launched a massive 22-day offensive against an unprotected population. It faced almost no opposition in Gaza as evidenced by the huge disparity in casualties. On the Palestinian side, 1,400 people—the majority of them civilians,

including 400 women and children—were killed, at least 5,000 people injured, and 21,000 homes destroyed as well as much of the vital infrastructure. On the Israeli side, 13 people died, and several of these were the result of “friendly fire.”

Operation Cast Lead was a criminal venture from the very start. On the first day of the war, Yoav Galant, Israel’s Southern Front Commander, declared that the military would try to “send Gaza decades into the past” in terms of weapons capabilities, while achieving “the maximum number of enemy casualties and keeping Israel Defence Forces casualties at a minimum.”

The Israeli government knew this was illegal and made extensive preparations to evade prosecution. It refused to allow reporters into Gaza, where there were few international journalists after the BBC’s Alan Johnston was held captive for four months by Hamas, to ensure that the military’s conduct was shielded from public scrutiny. With only journalists “embedded” in Israel’s armed forces allowed to report, the sole on the spot independent coverage was provided by *Al Jazeera*.

Israel refused to allow the publication of photos or names of soldiers in Operation Cast Lead. It made official commitments at the highest levels to shield soldiers from charges of war crimes and declared that it will pay all legal expenses abroad. Officers who travel abroad have first to get approval for their trip.

The four-member inquiry panel, set up by the UN Human Rights Council, was chaired by someone of the highest credentials: the South African judge Richard Goldstone, who was the chief prosecutor in war crimes involving the former Yugoslavia and Rwanda and is himself Jewish and a lifelong supporter of Israel.

He insisted that the inquiry deal with the run-up to the war and Hamas’s actions, so that the investigation would be seen as both “even handed” and comprehensive. When Israel refused to cooperate with his inquiry and prevented the panel from taking evidence in Israel and the West Bank, Goldstone held public hearings in Gaza and talked to Palestinians and Israelis in Geneva. The panel interviewed 188 people and read 300 reports.

The inquiry rejected Israel’s arguments that Hamas, which

controls Gaza, was to blame and that Operation Cast Lead was a legitimate act of self-defence in response to rocket fire on Israeli towns and villages launched by militants from Gaza. The war was, it said, “a *deliberately* disproportionate attack designed to punish, humiliate and terrorise a civilian population, radically diminish its local economic capacity both to work and to provide for itself and to force upon it an ever-increasing sense of dependency and vulnerability” (emphasis added).

It accused Israel of using Palestinians as human shields and said that Israel’s economic blockade of Gaza amounted to “collective punishment intentionally inflicted by the government of Israel on the people of the Gaza Strip.”

Israel’s actions deprived Gazans of means of subsistence, employment, housing and water, denied their freedom of movement and “could lead a competent court to find that the crime of persecution, a crime against humanity, had been committed.”

The investigation also condemned Hamas, stating that rocket attacks, aimed at civilian targets, “would constitute war crimes and may amount to crimes against humanity.” It criticised Gazan security forces for carrying out extrajudicial executions and the arbitrary arrest, detention and ill-treatment of its political opponents. The report also called for the release of Gilad Shalit, an Israeli soldier captured in Gaza in July 2006. But it insisted that there could be no equation of the power of Israel, the occupying force, and that of the Palestinian people or its representatives, Hamas.

The report also said that all those countries that had signed the 1949 Geneva Conventions had a duty to search for and prosecute those responsible, using their “universal jurisdiction” to prosecute war criminals.

But while the UN human rights council in Geneva is expected to discuss the report on September 29, nothing will come of it.

The Obama administration came almost immediately to the aid of Tel Aviv, sharply criticising the report as unfair to Israel and for supposedly failing to deal fully with Hamas’s role before and during the conflict. The recommendation that Israel be referred to the ICC was summarily dismissed.

The US and other major imperialist powers have always sought to prevent any action being taken against Israel either through the ICC or by countries using “universal jurisdiction” to launch a prosecution in their own courts.

Belgium was bullied into changing its legislation based on universal jurisdiction after it attempted in February 2002 to charge then prime minister Ariel Sharon for war crimes in relation to Sabra and Shatilla. The then US Secretary of State Donald Rumsfeld even threatened to move the NATO headquarters out of Brussels.

When a Spanish court earlier this year attempted to open a criminal investigation under international law into the assassination of a Hamas leader in Gaza City by Israel in 2002, the investigation was dropped and the legislation amended,

limiting it to cases involving Spanish victims or suspects present on Spanish soil.

As Richard Falk, the UN special rapporteur on the Palestinian territories and a professor of international public law, said, “But politically I think it [a referral to the ICC] is highly unlikely because the US and probably some European governments will create effective impunity for Israel by preventing the referral.”

At stake in such interventions is not simply a desire to protect a major US ally. The concerns of the Washington elite, and the political class in Europe, fall closer to home. Israel’s prime minister Binyamin Netanyahu spelled out very publicly why world leaders should quash the report and so allow Israel to plan and commit further crimes against the Palestinians and whomever else it chooses.

He warned that prosecuting Israel for war crimes could serve as a precedent for prosecutions against other countries. “It’s not just our problem,” Netanyahu told the media. “If they accused IDF [Israeli Defence Force] officers, IDF commanders, IDF soldiers, IDF pilots and even leaders, they will accuse you too. What, NATO isn’t fighting in various places? What, Russia isn’t fighting in various places?”

There is another factor that enables Israel to act with impunity, unlike 1982 when hundreds of thousands of Israelis demonstrated against their government’s complicity in the massacre of Sabra and Shatilla and demanded an independent inquiry.

Today, the widespread revulsion among the Israeli population at the murderous campaigns of the IDF against the Palestinians cannot find even the most limited political expression. The peace movement has collapsed and the Labour Party now sits in coalition with Netanyahu, after earlier occupying a government role alongside Kadima. Its leader Ehud Barak, then acting as minister of defence, was responsible for directing the assault in Gaza.



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