

UN investigator repudiates Gaza war findings under US and Israeli pressure

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The op-ed piece in Friday's *Washington Post* by Judge Richard Goldstone presents an unedifying spectacle.

In it Goldstone absolves Israel of criminal intent during its murderous assault on Gaza in December 2008. His article repudiates his own critical 2009 report for the United Nation's Human Rights Council that accused both Israel and Hamas of war crimes and "possibly crimes against humanity".

His own explanation for his mea culpa is entirely unconvincing. His reversal can only be interpreted as a capitulation to the massive campaign of bullying and intimidation by Tel Aviv and Washington aimed at getting the report revoked.

Mark Toner, US State Department deputy spokesman, said that the Obama administration had never seen evidence that Israel had committed any war crimes or intentionally targeted civilians and welcomed Goldstone's newly minted conclusion. He then expressed concern for what he called an "anti-Israeli bias in the Human Rights Council".

Israel's assault on Gaza, Operation Cast Lead, was waged against a largely unarmed and defenceless population. It killed 1,400 people, the majority of them civilians, including 400 women and children, injured at least 5,000 people, and destroyed 21,000 homes and much basic infrastructure, including water and sewerage treatment works. Such was the one-sided and criminal nature of the operation that Israel suffered only 13 deaths, of which several were by "friendly fire."

Goldstone's report 18 months ago had acknowledged this, saying that the war was "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."

He called for the UN Security Council to refer the case

to the International Criminal Court (ICC) if Israel failed to conduct an independent investigation into the military's conduct within six months. The report also called on countries that are signatories to the 1949 Geneva Conventions to use their "universal jurisdiction" to search for and prosecute those responsible for war crimes. Its conclusions were endorsed by the UN Human Rights Council by a majority of 25 to 6, with 11 countries absenting themselves or abstaining.

Now Goldstone, a former South African judge and chief prosecutor at the UN Yugoslavia and Rwanda Tribunals, has sought to justify his volte-face by saying, "We know a lot more today about what happened in the Gaza war of 2008-09 than we did when I chaired the fact-finding mission appointed by the UN Human Rights Council that produced what has come to be known as the Goldstone Report. If I had known then what I know now, the Goldstone Report would have been a different document."

New evidence from Israel "probably would have influenced our findings about intentionality and war crimes," he adds.

And what is the source of this new information? Israel had refused to cooperate with the UN investigation or allow its four-person delegation to enter the country saying its mandate was "one-sided". Instead, internal Israeli inquiries that were anything but independent were held. They were conducted by low-ranking military officials, who refused to seek evidence from Gazan witnesses or examine their own commanders' public statements.

The investigations ended in a whitewash. They found no widespread abuses and breaches of international law. Israel acknowledged that there had been "a very small number of incidents" where its soldiers had unintentionally killed dozens of Palestinian civilians in Gaza, but this was the result of "intelligence or

operational errors”. While Israel said—months ago—that two senior officers might be charged as a result, it has done nothing. Two senior officers were disciplined for authorising an artillery attack using phosphorus bombs that set fire to a United Nations compound in Gaza City, but they retained their rank and pay, and were not prosecuted.

Goldstone praised Israel for carrying out these investigations, accepted their findings as good coin and drew the desired conclusion that Israel had no policy of intentionally targeting civilians.

This flatly contradicts Israel’s own statements. In October 2008, Gadi Eizencout, an IDF commander, explained Israel’s “Dahiyah doctrine”—the indiscriminate targeting of civilians and non-military sites—in an interview with the mass daily *Yedioth Aharonoth*.

Eizencout said, “What happened to the Dahiyah neighbourhood of Beirut in 2006 will happen to each village from which Israel is fired on. We will apply disproportionate force and inflict huge damage and destruction. In our mind, these are not civilian villages but army bases.... [T]he next war must be decided quickly, aggressively, and without seeking international approval.”

“This is not a recommendation, this is a plan and it has already been approved,” he continued.

Goldstone now depicts Hamas as the villain of the piece, writing that, unlike Israel, the Hamas government in Gaza “has done nothing.”

“That the crimes allegedly committed by Hamas were intentional goes without saying— its rockets were purposefully and indiscriminately aimed at civilian targets,” he writes.

To equate the firing of rockets from Gaza into Israel’s southern towns and cities, which have killed 13 people since 2000, with the illegal occupation and brutal oppression of a people for more than 40 years by one of the world’s most powerful armed forces is ludicrous.

Goldstone goes on to criticise the UN Human Rights Council for its anti-Israel bias, saying that he hoped that the report could “begin a new era of even-handedness at the UN Human Rights Council, whose history of bias against Israel cannot be doubted.”

“Something that has not been recognised often enough is the fact that our report marked the first time illegal acts of terrorism from Hamas were being investigated and condemned by the United Nations,” he adds.

Goldstone then calls on the UN’s Human Rights Council to condemn the recent stabbing attack at the West Bank settlement of Itamar.

His remarks could have been scripted by Israel’s premier, Binyamin Netanyahu.

With help from the White House, Netanyahu mounted an international campaign of bullying and intimidation to oppose Goldstone’s initial report and ensure that the Security Council—dominated by the US and the European powers that hold the power of veto—did not refer the case to the International Criminal Court. He also launched a major international offensive to stop other countries using or revoking their “universal jurisdiction” legislation to bring lawsuits against senior Israel politicians and military personnel for war crimes and crimes against humanity.

Avigdor Lieberman, Israel’s foreign minister, admitted in a television interview that Israel had exerted pressure on Goldstone behind the scenes. There are also reports that Goldstone found himself socially ostracised for his criticism of Israel, including being disinvited from his grandson’s bar mitzvah in South Africa.

One can only surmise that pressure from Washington was at least as sustained as that emanating from Israel.

Tel Aviv is now calling for the report to be formally revoked. This would require Goldstone to submit a formal request to the UN, the only forum with the authority to revoke the contents of the report.

As well as getting Israel off the hook in relation to its 2008-2009 assault on Gaza, Goldstone’s retraction gives a green light for Netanyahu to carry out any military action he chooses against defenceless civilians irrespective of international law, under the guise of fighting terrorism. It comes at a time when Israel is mounting provocations against the Palestinians in Gaza and making bellicose noises against Lebanon and Syria.



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