

UN Gaza report co-authors reject Goldstone's capitulation to Israel

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Last week, the co-authors of the United Nations Gaza report, known as the Goldstone Report, issued a statement vigorously defending their report and rejecting Richard Goldstone and Israel's repudiation of their 2009 accusations against Israel and Hamas of war crimes and "possibly crimes against humanity".

The three co-members of the UN Human Rights Council's Fact Finding Mission, Hina Jilani, Pakistani human rights lawyer, Colonel Desmond Travers, former Irish peace-keeper, and Christine Chinkin, professor of international law at the London School of Economics, said they stood by the conclusions of their report since neither Israel nor Hamas had provided any new evidence that invalidated them.

Referring to Goldstone's op-ed piece in the *Washington Post* absolving Israel of intentionally, and thus criminally, targeting civilians as a matter of policy during its assault on Gaza in December 2008, they said that "it had misrepresented the facts in an attempt to delegitimize the findings" of their report and "to cast doubts on its credibility".

The three joint authors said that calls to recant their report or misrepresent its purpose "disregard the rights of Palestinian and Israeli victims to truth and justice".

Goldstone, a former South African judge and chief prosecutor at the UN Yugoslavia and Rwanda Tribunals, sought to justify his volte-face by saying that new evidence from Israel "probably would have influenced our findings about intentionality and war crimes" and that "If I had known then what I know now, the Goldstone Report would have been a different document".

Goldstone's cringing retraction of his own conclusions came after an international campaign of bullying, intimidation and vilification of the investigation and its authors, particularly Goldstone, by Israel. As his co-authors

explained, these attacks were "clearly aimed at undermining the integrity of the report and its authors".

According to US State Department cables published by WikiLeaks, Israel's Prime Minister Benjamin Netanyahu claimed that the Goldstone report posed the third most important threat to Israel after Iran's nuclear programme and missile proliferation.

Netanyahu had initially refused to carry out any investigations into Israel's conduct of the assault on Gaza. He only acceded to international demands in an attempt to deflect criticisms and avoid any possible prosecution.

Israel greeted Goldstone's volte face with jubilation and called for the report to be formally revoked. The US Senate passed a resolution calling for the UN to rescind the report and redress the damage done to Israel's reputation. As Avigdor Lieberman, Israel's right wing foreign secretary, put it, "The price of dealing [with the report] over the past few years was worth it".

Taking it as a green light to do whatever it liked, Israel within days mounted an aerial bombardment on Gaza's defenceless population, killing at least 25 and wounding dozens more. Most of the casualties were civilians, and many of those injured were children.

But Goldstone's co-authors dismissed Israel's demand to bin the report. They rejected any notion that "subsequent developments have rendered any part of the mission's report unsubstantiated, erroneous or inaccurate".

Israel's assault, known as 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 of its 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, and several of these were by “friendly fire”.

The 574-page Goldstone Report confirmed the findings of numerous other respected international studies and said little that was substantively new.

It called the war “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”.

But the report itself was not, as Israel has maintained, hostile to Israel. It did not question Israel’s right to self-defence against a defenceless people whom it had illegally occupied and brutally suppressed for more than 40 years. Nor did it raise the illegality of the declared objective for the assault, the destruction of Hamas, which on its own admission Israel had been preparing for at least six months, leading it to equate Hamas’ rocket attacks on Israeli civilians with Israel’s attack on Gaza.

Goldstone had called for the UN Security Council to refer the case to the International Criminal Court (ICC) so that individuals who had ordered, planned or carried out international crimes could be prosecuted if Israel failed to conduct an independent investigation into the military’s conduct within six months. It 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.

The report’s conclusions were endorsed by the UN Human Rights Council by a majority of 25 to six, with 11 countries abstaining themselves or abstaining.

Last month, the final report, written by a follow-up committee headed by the American judge Mary McGowan Davis and Swedish judge Lennart Aspergren, was presented to the UN Human Rights Council.

That committee insisted that while Israel had carried out some 400 investigations into allegations by the Goldstone Report and other human rights organisations, these were operational not legal investigations. As military investigations, it was a case of the military investigating itself and they were thus not independent investigations as required by the UN.

It noted that only three of the 400 Israeli cases were to be the subject of prosecutions. Of these three, only two have

resulted in convictions. One person was convicted for the theft of a credit card which resulted in a seven month prison sentence. Another person was convicted for using a Palestinian child as a human shield, but received a lesser and derisory punishment of a three-month suspended sentence. A third case relating to allegations that Israel had deliberately targeted someone carrying a white flag has still to be heard.

The McGowan committee had deplored the dilatory nature of the proceedings, the lack of transparency and the failure to take evidence from victims and witnesses. It noted that two years after Operation Cast Lead, more than one third of the 36 incidents cited in the report were still unresolved or were without a clear status. Such delays would erode the possibility of any meaningful investigation.

Even more importantly, the committee pointed out that Israel had failed to address the most serious allegation: the policies guiding Operation Cast Lead. Israel was widely known to have a policy of targeting civilians and indeed its own officials had made statements to that effect. 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*. He insisted that this was not a recommendation but a plan that “has already been approved”.

Despite this, as the committee noted, there was “no indication that Israel has opened investigations into the actions of those who designed, planned, ordered and oversaw Operation Cast Lead”.

There was therefore no basis whatsoever for revoking the Goldstone report. As the authors noted, the UN report has triggered a legal process that is still underway and should continue until justice is done. That means bringing Israel before the International Criminal Court to answer the allegations of war crimes and “possibly crimes against humanity”.



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