

# Goldstone Commission Gaza Conflict Findings and Reactions

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On April 3, 2009, a UN press release stated:

“The Human Rights Council (HRC) today announced the appointment of Richard J. Goldstone....to lead an independent (four-person) fact-finding mission to investigate international human rights and humanitarian law violations related to the recent conflict in the Gaza Strip....The team will be supported by staff of the Office of the High Commissioner for Human Rights....Today’s appointment comes following the adoption of a resolution by the Human Rights Council....to address ‘the grave violations of human rights in the Occupied Palestinian Territory, particularly due to the recent Israeli military attacks against the occupied Gaza Strip.’”

Established by the UN General Assembly on March 15, 2006, the HRC’s 47 member states are “responsible for strengthening the promotion and protection of human rights around the globe.”

As a former South African Constitutional Court justice, Goldstone is a respected jurist. He also served as chief prosecutor for the Yugoslavia and Rwanda tribunals and is a Hebrew University board member. As a Jew, he promised to be fair and even-handed, and “hope(s) that the findings....will make a meaningful contribution to the peace process....and will provide justice for the victims.”

At the time, Israel refused to cooperate, Foreign Ministry spokesman, Yigal Palmor, saying: “This committee is instructed not to seek out the truth but to single out Israel for alleged crimes.” He then accused the Council of having “practically (no) credibility at all.”

On September 15, the HRC released the Commission’s 575 page report, titled Human Rights in Palestine and Other Occupied Arab Territories: Report of the United Nations Fact Finding Mission on the Gaza Conflict.

[To consult the Goldstone Report, click here](#)

It covered Operation Cast Lead, the Gaza siege, the impact of Israel’s West Bank military occupation, and much more including:

- events between the “ceasefire” period from June 18, 2008 to Israel’s initiated hostilities on December 27, 2008;
- applicable international law

- Occupied Gaza under siege;
- an overview of Operation Cast Lead;
- the obligations of both sides to protect civilians;
- indiscriminate Israeli attacks on civilians resulting in many hundreds of deaths and thousands of injuries;
- “the use of certain weapons;”
- attacking “the foundations of civilian life in Gaza: destruction of industrial infrastructure, food production, water installations, sewage treatment plants and housing;”
- using Palestinians as human shields;
- detention and incarceration of Gazans during the conflict;
- the IDF’s objectives and strategy;
- impact of the siege and military operations on Gazans and their human rights;
- the detention of the Israeli soldier, Gilad Shalit;
- internal Gaza violence - Hamas v. Fatah;
- the Occupied West Bank and East Jerusalem;
- Israel’s treatment of Palestinians in the West Bank, including excessive or lethal force during demonstrations;
- Palestinians in Israeli prisons;
- Israeli violations of free movement and access rights;
- Fatah targeting Hamas supporters in the West Bank, and restricting free assembly and expression;
- rocket and mortar attacks against Israeli civilians;
- repression of dissent, access to information, and treatment of human rights defenders in Israel;
- Israeli responses to war crimes charges;
- proceedings by Palestinian authorities;
- universal jurisdiction;
- reparations; and
- conclusions and recommendations.

The introduction stated that:

“The Mission interpreted (its) mandate (to) requir(e) it to place the civilian

population of the region at the centre of its concerns regarding the violations of international law.”

It repeatedly tried to get Israel’s cooperation, but failed. However, it “enjoyed the support and cooperation of the Palestinian Authority (PA) and of the Permanent Observer Mission of Palestine to the United Nations.” Israel denied the Commission access to the West Bank and had to meet with PA officials in Amman, Jordan. “During its visits to the Gaza Strip, the Mission (also) held meetings with senior (Hamas) members, and they extended their full cooperation and support....”

The Commission’s “normative framework” was international law, international humanitarian law, the UN Charter, and international human rights and criminal law.

Information gotten included:

- reports from different sources;
- interviews with victims, witnesses, and others with relevant information;
- visitations to specific Gaza sites where incidents occurred;
- an analysis of video and photographic images, including satellite imagery;
- medical reports about injuries to victims;
- forensic analysis of weapons and munitions remnants collected from incident sites;
- meetings with interlocutors;
- information received in response to requests to provide it; and
- public hearings in Gaza and Geneva.

The Commission conducted 188 interviews, received over 300 reports, submissions, and other documents comprising more than 10,000 pages, 30 videos, and 1,200 photographs. As much as possible, it relied on material gathered first-hand. Secondary sources were then used for corroboration. Overall, enough information was obtained “of a credible and reliable nature for the Mission to make a finding in fact.” It established clear evidence of crimes, and in almost all cases was able to determine if the acts in question were deliberate or reckless.

“By refusing to cooperate with the Mission, the Government of Israel prevented it from meeting Israeli government officials, but also from traveling to Israel to meet with Israeli victims and to the West Bank to meet with Palestinian Authority representatives and Palestinian victims.”

### **Commission’s Findings**

A UN September 15 press release stated that the Mission concluded that “there is evidence indicating serious violations of international human rights and humanitarian law were committed by Israel during the Gaza conflict, and that Israel committed actions amounting to war crimes, and possibly crimes against humanity.” Examples included numerous

incidents of civilians shot waving white flags while trying to leave their homes for safer locations. Other instances of Palestinians used as human shields, arbitrary arrests, and extra-judicial assassinations in Gaza and the West Bank.

In particular, the Commission noted that:

“While the Israeli Government has sought to portray its operations as essentially a response to rocket attacks in the exercise of its right of self defence, the Mission considers the plan to have been directed, at least in part, at a different target: the people of Gaza as a whole.” Rocket attacks were a pretext for naked aggression.

Calling them war crimes, the Mission found evidence that “Palestinian armed groups” launched rockets and mortars into Southern Israel, but they were minor incidents compared to the Israeli onslaught.

The Commission called the Gaza siege collective punishment through a “policy of progressive isolation and deprivation,” and that Operation Cast Lead destroyed vast amounts of Gaza infrastructure, homes, public buildings, factories, schools, hospitals, police stations, and other structures and facilities.

It cited the death toll at over 1,400, families still living in rubble, the blockade preventing reconstruction, and significant immediate and long-term trauma, especially on children.

It blamed Israel for depriving Palestinians of a means of subsistence, employment, housing, water, free movement, the right to leave and return to their own country, and access to judicial redress constituting a “crime of persecution (and) against humanity....”

Israel also violated the principles of “distinction” between combatants and military targets v. civilians and non-military ones, and “proportionality” that prohibits disproportionate indiscriminate force likely to cause extensive damage and great loss of life.

The Commission found numerous incidents of Israeli forces launching “direct (disproportionate) attacks against civilians with lethal outcomes.” These are war crimes because “no justifiable military objective” was pursued.

It cited “a justice crisis in the Occupied Palestinian Territory that warrants action.” It said Israel conducted no “credible investigation into alleged violations,” and recommended that the Security Council (SC) require it to do so and report back within six months. It further asked the SC to establish an expert independent body to oversee the investigations and prosecutions progress and refer the matter to the International Criminal Court (ICC) Prosecutor if Israel doesn’t comply.

“The report concludes that the Israeli military operation was directed at the people of Gaza as a whole, in furtherance of an overall and continuing policy aimed at punishing the Gaza population, and in a deliberate policy of disproportionate force aimed at the civilian population. The destruction of food supply installations, water sanitation systems, concrete factories and residential houses was the result of a deliberate and systematic policy which has made the daily process of living, and dignified living, more difficult for the civilian population.”

## **Richard Goldstone's September 17, 2009 New York Times Op-Ed**

Goldstone said that, "above all," he accepted the UN mandate because of his deep belief "in the rule of law and the laws of war, and the principle that in armed conflict civilians should to the greatest extent possible be protected from harm."

Yet Israel willfully killed hundreds of civilians as a result of "disproportionate attacks," including on hospitals and civilian structures. "Repeatedly, the Israel Defense Forces failed to adequately distinguish between combatants and civilians, as the laws of war strictly require....Pursuing justice in this case is essential because no state or armed group should be above the law." Failure to do so "will have a deeply corrosive effect on international justice, and reveal an unacceptable hypocrisy. As a service to hundreds of civilians who needlessly died and for the equal application of international justice, the perpetrators of serious violations must be held to account."

## **Amnesty International's (AI) Response to the Goldstone Report**

Donatella Rovera, head AI's Operation Cast Lead investigation, called on the UN Human Rights Council to "endorse the report and its recommendations and request the UN Secretary-General to refer it to the UN Security Council. (It) and other UN bodies must now take the necessary steps to ensure that the victims receive justice and reparation that is their due and that perpetrators don't get away with murder." The Security Council "must refer the Goldstone findings to the International Criminal Court (ICC) Prosecutor if Israel and Hamas do not carry out credible investigations within a set, limited period." AI added that the report's findings are consistent with its own.

## **The New York Times Response to the Goldstone Report**

A September 15 Neil MacFarquhar article quoted the report citing Israel's "deliberately disproportionate attack designed to punish, humiliate and terrorize a civilian population," but suggested that Hamas was equally culpable.

Then on September 17, it published two highly critical letters of Goldstone. One was from Richard Sideman, president of the American Jewish Committee saying:

"Richard Goldstone displays the same disregard for Israel and naivete regarding Hamas that permeates the report he wrote for the United Nations Human Rights Council."

He then vilified the HRC as "consistently demoniz(ing) Israel while giving a free pass to some of the world's worst tyrants, from Sudan to Iran, (and) Mr. Goldstone largely neglects what prompted Israel to act militarily against Hamas....In sum, Mr. Goldstone's conclusions are a disservice to the credibility of the United Nations itself."

In the second letter, Matan Shamir, a Legacy Heritage Fellow, said Richard Goldstone is "absolutely right" about "the 'corrosive effect on international justice' and the 'unacceptable hypocrisy' of not holding Israel accountable....but through the select application of international law against one democratic nation, Israel." By that standard, "United States troops would similarly be unable to defend themselves in Iraq and Afghanistan without being smeared as war criminals."

On September 18, The Times ran two more anti-Goldstone letters condemning Hamas "terrorism," defending Israel's right to self-defense, and saying that since its founding, "Israel was plagued by attacks by rejectionist groups that continue to this day."

It also ran a September 18 story headlined "UN Study Is Called Unfair to Israel" and quoted State Department spokesman Ian Kelly saying:

"Although the report addresses all sides of the conflict, its overwhelming focus is on the actions of Israel. Its conclusions regarding Hamas' deplorable conduct and its failure to comply with international humanitarian law during the conflict are more general and tentative."

Absent entirely from The Times, now and always, is an emphasis on the egregiousness of Israeli crimes, its ability to commit them with impunity, the unconscionable Gaza siege, and 42 years of oppressive military occupation and state terror against millions of Palestinian civilians. In covering a persecuted people, The Times looks the other way.

### **The Palestinian Centre for Human Rights (PCHR) Response**

PCHR welcomed the Goldstone report and called for "effective judicial redress and the protection of victims' rights." It urged that the Mission's recommendations be adopted to assure accountability, either through the Security Council; under the UN Charter's Chapter VII that deals with breaches of or threats to peace and acts of aggression; or by referring the matter to the ICC for criminal prosecutions and to compensate Palestinians in accordance with international law.

PCHR stressed that normal relations can't be conducted with states that commit crimes of war and against humanity. International pressure must be exerted to insure Israel's compliance. The siege must be ended and reconstruction allowed to begin. So far, the international community is silent and has granted Israel impunity to act above the law.

"The results of this impunity are evident. The situation cannot be allowed to persist. If the rule of law is to be relevant, it must be upheld." According to the UN Charter, individual states and the UN must fulfill their legal obligation "to save succeeding generations from the scourge of war....reaffirm faith in fundamental human rights....establish conditions under which justice (and) international law can be maintained, (and resolve) to maintain international peace and security...."

### **Other Responses from Human Rights Organizations**

Rabbis for Human Rights called on Israel to take the report seriously, study its findings, and investigate charges of "violat(ions of) the laws of war as well as human rights." Rabbi Ellen Lippmann, co-chair, Rabbis for Human Rights-North American (PHR-NA) said:

"Our colleagues in Israel have been urging Israel to launch an independent and impartial investigation of its own. As we rabbis and our communities prepare to celebrate Rosh HaShanah, our hearts and minds are turned toward Israel, hoping than an investigation will begin shortly....to work toward justice and right in Israel and at home."

The Arab Association for Human Rights (ARABHRA) endorsed the Goldstone report's findings of "strong evidence of war crimes and crimes against humanity committed during the Gaza conflict." It called for an end to Israeli impunity and action to hold it accountable.

"Taking into account the ability to plan, the means to execute plans with the most developed technology available, and statements by the Israeli military that almost no errors occurred, (it's clear) that the incidents and patterns of events considered in the report are the result of deliberate planning and policy decision."

B'Tselem said "Israel must investigate Operation Cast Lead" crimes, and called on its government "to take the report seriously and to refrain from automatically rejecting its findings or denying its legitimacy. Already it is clear that the findings of the report will join a long series of reports indicating that Israel's actions (in Gaza) violated the laws of combat and human rights law."

Other human rights organizations endorsed this statement including: Association for Civil Rights in Israel (ACRI), Adalah, Bimkom, Gisha, HaMoked, Physicians for Human Rights (Israel), The Public Committee Against Torture (PACTI), and Yesh Din.

### **Israel's Response**

Not surprisingly, Israeli officials condemned the report and dismissed it out of hand. President Shimon Peres called it "a mockery of history" and charged that it "fails to distinguish between the aggressor and a state exercising its right of self defense....The report legitimizes terrorist activity, the pursuit of murder and death. The report disregards the duty and right of self-defense...."

Prime Minister Benjamin Netanyahu said:

"The Goldstone report is a kangaroo court against Israel, whose consequences harm the struggle of democratic countries against terror."

Deputy Foreign Minister, Danny Ayalon, called the report "a dangerous attempt to harm the principle of self-defense by democratic states and provides legitimacy to terrorism. (It's) a cynical attempt at role reversal in blaming Israel for war crimes instead of terrorist organizations." He added that Israel would enlist the support of Western democracies in a campaign "to prevent turning international law into a circus."

Defense Secretary, Ehud Barak, said the report constituted "a prize for terrorism. The comparison between those who foment terrorism and its victims is unconscionable."

UN ambassador, Gabriela Shalev, said: "The mandate of the Goldstone Commission was one-sided from the beginning and the initiative to establish the commission came from the UN Human Rights Council, which is known for regularly and routinely condemning Israel."

The extremist Jerusalem Post called the report "nauseating (by equating) a democratic state with a terror organization."

Foreign Minister Avigdor Lieberman said:



“The whole purpose of the report, from the moment the decision was made to write it, was to destroy Israel’s image, in service to countries where the terms ‘human rights’ and ‘combat ethics’ do not even appear in their dictionaries. I can say wholeheartedly....that the IDF is the most moral army in the world, and it is forced to deal with the most vile terrorists, who set for themselves the goal of killing women and children, and hide behind women and children.”

“(The report) wishes to take the UN back to the dark ages....(It) has no legal, factual or ethical value, (and) it is a testament to the writers of the report and those that sent them.”

Lieberman heads the ultranationalist/revisionist Zionist Yisrael Beiteinu (Israel is Our Home) party, and has openly called for the assassination of Hamas leaders, saying:

“They have to disappear, go to Paradise, all of them and there can’t be any compromise.”

He also wants the peace process abandoned, Palestinian President Mahmoud Abbas ignored, and once urged that Israeli Arabs be deported and Arab Knesset members who met with Hamas or Hezbollah executed. Haaretz called him:

an “unrestrained and irresponsible man....a threat (to Israel for) his lack of restraint and his unbridled tongue (that may) bring disaster (to) the whole region.”

Like other Israeli leaders, confrontation with Iran is one of his top priorities as well as continued West Bank land seizures (including all of East Jerusalem) for settlement expansions, denying Palestinians their rights and freedom, and restricting them to isolated cantons.

### **New UN Report Says Israel Is Blocking Gaza’s Reconstruction**

On September 18, the London Guardian reported on a leaked September UN report accusing Israel of causing “de-development” by keeping Gaza under siege, denying essential aid, and blocking its reconstruction.

From Jerusalem, Rory McCarthy wrote:

“....much reconstruction work is still to be done because materials are either delayed or banned from entering the strip. The UN (Office of the Humanitarian Co-ordinator) Report, obtained by the Guardian, reveals the delays facing the delivery of even the most basic aid. On average, it takes 85 days to get shelter kits into Gaza, 68 days to deliver health and paediatric hygiene kits, and 39 days for household items such as bedding and kitchen utensils.”

All sorts of essentials are either delayed or banned. The report accused Israel of “contraven(ing)” the Security Council’s January 2009 resolution 1860 calling for “unimpeded provision and distribution” of humanitarian aid.

Titled “Access for the Provision of Humanitarian Assistance to Gaza: An Overview to Delivering Principled Humanitarian Assistance,” it said:



“...there has been no significant improvement in the quantity and scope of goods allowed into Gaza....The lack of construction materials, as well as equipment and material necessary for maintenance and repair of public infrastructure, has led to a process of de-development in the Gaza Strip, which potentially could lead to the complete breakdown of public infrastructure and further deterioration in the economy.”

In 2005, Israel signed an Agreement on Movement and Access (AMA) with the PA. At the time, 9,470 monthly truckloads into Gaza were considered inadequate. During June and July 2009, only 2,406 entered monthly, a 75% reduction and 80% below the June 2007 12,352 level for the Strip's 1.5 million people.

“The result is a gradual process of de-development across all sectors, devastating livelihoods, increasing unemployment, and resulting in increased aid dependency amongst the population.”

Everything is urgently needed, but blocked from entering, including vital construction materials for redevelopment. Getting in are inadequate amounts of food, hygiene, and some other items plus what enters through Gaza's tunnel economy.

### **Final Comments**

For over six decades, Israeli state terror continued its tradition of blaming the victim and choosing militarism, violence, intimidation, and naked aggression over peaceful coexistence, respect for human rights, and observance of international laws and norms. Israelization and De-Arabization are fixed policies. So is the Dahiya Doctrine, named after the Beirut suburb that the IDF destroyed in the 2006 Lebanon war. It calls civilians a strategic target “at the heart of the enemy's weak spot,” and for using disproportionate force against them, their property, and infrastructure.

Arabs are thus disenfranchised, denied rights, and deemed inferior as subhumans. Israeli policy is confrontation, conflict, oppression, impoverishment, displacement, slow-motion genocide, and state terror to depopulate historic Palestine for Jews only.

Operation Cast Lead was the latest episode, but Gaza remains isolated under siege. The West Bank is under military occupation. Land seizures, arrests, random killings, torture, checkpoint restrictions, home demolitions, crop destruction, permits, economic strangulation, and incarcerations occur daily, yet the world community is silent. The Goldstone Commission offers the latest evidence of what's persisted for decades. Holding Israel accountable is essential. It's high time world bodies and jurists demanded it.

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