

Israeli War Crimes: Delusional Self Defense, Delusional Congressional Vote

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The [344-36 House vote last week condemning](#) the [Goldstone Report](#), which encourages Israel and Hamas to conduct “credible” independent investigations of war crimes committed in Gaza, may help Israeli leaders avoid prosecution in the short-term. However, the House vote and the negative US votes at the UN will have long-term detrimental effects both on Israel and on the U.S.’s moral authority.

Consider that within the UN General Assembly, 110 nations endorsed the Report, while the U.S. was among the minority of 18 nations that voted against the endorsement. The Congressional vote will increase the likelihood of a worldwide campaign to push the UN General Assembly, the International Criminal Court, or other countries, under universal jurisdiction, to hold Israel to account for war crimes committed in Gaza.

Self-defense is of utmost concern because self-defense was a central element of Israel’s ongoing argument for the war and is the heart of the U.S.’s rejection of Goldstone. Israeli officials have featured that claim in every forum leading up to Operation Cast Lead’s pummeling strikes. It was Israel’s justification in its [letter to the UN Secretary General](#) when Israeli state officials announced the war on December 27, 2008. It was the main theme of Netanyahu’s recent speeches to the General Assembly and to the Knesset. It was the main theme of the most recent House Resolution. It will be the U.S.’s main reason to veto in the forthcoming Security Council vote. The self-defense claim is not just a matter of public relations; it is essential. Absent self-defense, political and military officials in Israel are subject to charges that go beyond those in the Goldstone Report, including, but not limited to, the crime of war of aggression.

However, the self-defense claim propagated by Israeli and U.S. politicians since the initiation of Operation Cast Lead is inconsistent with both the facts and the law. Within weeks of entering into the Egyptian-brokered ceasefire agreement, Hamas rocket fire had come to a halt. According to the Israeli Ministry of Foreign Affairs, the ceasefire was so successful that it brought “normal life and “calm” back to Israeli towns near Gaza. In [an article posted on July 27](#), 2008, the Israeli Ministry of Foreign Affairs even lauds Hamas, stating:

Publicly, Hamas leaders have stated time and again that the lull is a Palestinian national interest. On several occasions, Hamas members have arrested Fatah operatives who were involved in firing at Israel and confiscated their arms.

Calm prevailed for four months until Israeli forces [broke the ceasefire agreement](#) on

November 4, 2008. While the world's gaze turned to one of the U.S.'s most historic elections that day, Israel launched an armed incursion into Gaza, accompanied by aerial bombing, killing six Hamas members and catapulting the region into a renewed wave of violent hostilities. Hamas rocket fire immediately followed the Israeli attack. Two weeks later Israel's largest circulation paper [quoted Israeli Defense Minister Ehud Barak](#) admitting that "the recent waves of rocket attacks are a result of our operations, which have resulted in the killing of twenty Hamas gunmen." Barak's admission, consistent with the fact that Israel broke the ceasefire, makes Israel's self-defense claim baseless.

Still, [Hamas offered to reinstate and extend the ceasefire a month later](#) on December 23, 2008. Israel refused, ducking the chance to reach a diplomatic agreement that would have again ended rocket fire and brought the security desired by Israel. Instead, Israel chose massive escalation and four days later launched a gruesome aerial offensive against Gaza.

On the offensive's 17th day, Israeli foreign minister [Tzipi Livni boasted](#) that Israel was "going wild-and this is a good thing." The targeting of civilians described in the Goldstone Report seems to corroborate this Israeli attitude as Israeli forces attacked targets in Gaza that had nothing to do with Israel's stated military objective of stopping rocket fire. Israeli forces targeted schools, hospitals, factories, agricultural land, the only flour mill in Gaza, an egg farm, thousands of private homes, government buildings, and Palestinian civilians.

The Goldstone Report concluded:

While the Israeli Government has sought to portray its operations as essentially a response to rocket attacks in the exercise of its right to 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.(Goldstone par. 1883)

A [central element of the law of self-defense](#), as well as the laws regarding the conduct of war once started, is one unequivocal standard around which no controversy exists: the prohibition on targeting civilians and civilian infrastructure. As demonstrated not only by the Goldstone Report, but also in reports by [Israeli soldiers who participated in Operation Cast Lead](#) and reports by [Human Rights Watch](#), [Amnesty International](#), [Physicians for Human Rights-Israel](#), and the [National Lawyers Guild](#), Israeli forces directly targeted civilians and civilian infrastructure during its 22-day offensive. Even if Israel had not itself broken the ceasefire, its legal argument for self-defense would therefore be ineffective. Israel's only rebuttal to these charges was a military investigation conducted by the Israeli Army itself. But that self-serving investigation was nearly unanimously condemned as lacking independence and impartiality.

Thus, neither the facts nor the law support an Israeli self-defense claim. Rather than condemn Israel's act of aggression and its ongoing occupation and blockade of the Gaza Strip, Congress added its name to a pungent piece of manipulative delusion: that Israel's onslaught of Gaza constituted an act of self-defense. The House is now on record disavowing international law and international accountability mechanisms. People around the world will be persuaded that protests, boycotts, and divestment campaigns are all the more necessary, and they will look to places outside the US political establishment for justice.

Noura Erakat is a Palestinian-American attorney and James Marc Leas is a Jewish-American attorney, and both participated in the National Lawyers Guild delegation to Gaza in February.

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