

Gaza 2009: Revisiting the *Goldstone Report*

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The latest Israeli assault on Gaza led me to revisit the the 'Report of the United Nations Fact-Finding Mission on the Gaza Conflict' ¹ – aka the *Goldstone Report*. That was originally published in the 2009, after Israel had attacked Gaza with what they (Israel) called Operation Cast Lead – a bombardment which left over 1,400 Palestinians dead and much of the city in ruins. More than ten years ago I read an abridged version of the Report and hunted down a copy in order to remind myself of how little has changed, except for the scale of the murderous collective punishment that is being inflicted on the Palestinians. The abridged *Report* was edited by Adam Horowitz, Lizzy Ratner and Philip Weiss, with a Foreword by Desmond Tutu and an Introduction by Naomi Klein. There was also nearly a hundred pages of responses to the *Report* from eleven different commentators. It provides a devastating indictment of Israeli conduct that certainly helps put their current crimes into some sort of perspective.²

In the aftermath of the January 2009 Israeli invasion of Gaza, and in response to the international outcry, the United Nations Human Rights Council (UNHCR) established a fact-finding mission. This was headed up by Judge Richard Goldstone, an eminent South African jurist with previous experience of war crime investigations in the former Yugoslavia and Rwanda. He was a committed Zionist and, presumably, it was hoped that this might make him acceptable to the Israeli government. The other members of the mission were Hina Jilani, a Pakistani lawyer and women's rights activist, Christine Chinkin, a London School of Economics law professor, and Desmond Travers, an Irish ex-soldier with peace-keeping experience.³ Inevitably, the Israelis refused to cooperate, even denying the Mission and its staff access to Gaza via Israel. Let us look at this edition of the *Report*.

In his Foreword, Desmond Tutu makes clear his admiration for Goldstone, whom he had known for nearly thirty years. He was a man of 'integrity and courage' who had, for example, never minced his words 'about the violent

¹ <<http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-48.pdf>>

² Adam Horowitz, Lizzy Ratner and Philip Weiss, eds, *The Goldstone Report; The Legacy of the Landmark Investigation of the Gaza Conflict* (New York: Nation Books, 2011).

³ Now based at the Institute for International Criminal Investigations at the Hague.

history of South Africa's Apartheid-era government security forces', even 'in the face of death threats'. As for the *Report*, Tutu praises it as 'an historic attempt at seeking and then speaking the truth', but notes that it had been met with a fiercely hostile response. Its critics, rather than engage 'in reasoned debate . . . have tried to undermine it by attacking the report and even the judge himself. Yet these attacks, no matter how fierce, cannot alter the essential reality of what befell Gaza Above all, they cannot change the fact that ours is a moral universe and that injustice cannot have the last word.' (p. viii) In view of what is happening in Gaza as I write, this last sentiment seems somewhat optimistic.

In her Introduction, Naomi Klein describes the *Report* as reflecting the scale of the crimes committed by each side, concentrating mostly on Israel's actions, including attacks on houses, hospitals, and mosques that together killed scores of innocent people, as well as attacks on civilian infrastructure such as water installations, agricultural facilities and factories. But the report did not give Hamas a pass.

As far as she was concerned, the *Report* was 'a serious, fair-minded, and extremely disturbing document'. What was the Israeli response? The *Report* was condemned and Goldstone was subjected to a personal campaign of smears, abuse and intimidation. Klein quotes Prime Minister Benjamin Netanyahu to show how seriously the Israelis took the threat posed by the *Report*: 'there are three primary threats facing us today: the nuclear threat, the missile threat and what I call the Goldstone threat'. Not only did Israel condemn the Report as, among other things, part of an anti-Semitic plot – comparing it to a blood libel – steps were taken to prevent its recommendations being acted on in any way. Klein writes that, according to a report that appeared in the Israeli newspaper *Haaretz* on 17 January 2010, the president of the Palestinian Authority, Mahmoud Abbas, had been told that if he did not get a deferral of the vote on the *Report* at the UNHCR, 'Israel would turn the West Bank into a second Gaza'. (pp. xiii, xv)

The Goldstone Report

The *Report* looked at the number of Palestinian fatalities during the Israeli attack, with the Israelis claiming that 1,166 Palestinians had been killed, including 89 children and 49 women, while the Palestinian Centre for Human Rights recorded 1,444 fatalities, including 313 children and 116 women. The mission was unable to establish its own overall total, but did look at a number of specific incidents that involved 'the death of more than 220 persons, at least 47 of them children and 19 adult women'. Among the incidents they examined was the Israeli attack on the United Nations Relief and Works Agency compound

on 15 January, where perhaps as many as 700 people were sheltering. It was hit by at least five shells, including two that contained white phosphorous. That same day, the Israelis shelled the Al-Quds Hospital, once again using both high explosive and white phosphorous shells. Mission staff visited the Hospital on three separate occasions, inspecting the damage and interviewing medical staff.

Among the *Report's* factual findings was the conclusion that in the circumstances that resulted from the Israeli shelling, the hospital 'was unable to provide the necessary care for an eight-year-old girl. Despite heroic attempts to save her life, she died later at another hospital. The girl had been shot by an Israeli sniper. The Mission finds the Israeli armed forces responsible for her death'. (p. 102). And on 3 January, the al-Maqadmah mosque was targeted, an attack in which fifteen people were killed. The *Report* notes that the Israelis subsequently denied that any such attack took place and also insisted that those killed were ' Hamas operatives'. These 'apparent contradictions' were noted. One of the victims was a young boy 'who had been sitting at the entrance. His leg was blown off by the missile strike and found afterwards on the roof of the mosque'. (p. 134).

The Mission also looked at 11 specific incidents which were 'direct attacks against civilians with lethal outcome'. On 4 January, in the worst of these incidents, Israeli troops killed 23 members of the extended al-Samouni family: 'The photographs of all the dead victims were shown to the Mission at the home of the al-Samouni family'. (p. 117)⁴ There were many more such incidents, although none involving the loss of so many lives. The Mission also considered claims the Israelis used Palestinians as human shields were 'credible and reliable', not least because 'the statements of the men used as human shields . . . are corroborated by statements made by Israeli soldiers to the NGO Breaking the Silence'. (p. 176)

The Mission assessed the material damage inflicted on Gaza during the attack, concluding 'that 324 factories had been destroyed . . . at a cost of 40,000 jobs'. (p. 161) Their conclusion was that 'there was a deliberate and systematic policy on the part of the Israeli armed forces to target industrial

⁴ According to Goldstone's biographer, Daniel Terris, 'Saleh al-Samouni . . . walked Goldstone around what remained of the neighborhood. [. . .] Saleh led the group into the still-standing home of his dead father, Talal. There Goldstone cringed when he saw the crude graffiti on the living room walls. He could read the English: "Arabs need to die". "1 is down 999,999 to go". "Make war not peace". [. . .] Wa'el al-Samouni's house was no longer standing, but he greeted the Mission members at the home of one of his cousins. Wa'el walked Goldstone around the courtyard whose walls were lined with twenty-three photographs. [. . .] The pain of loss affected Goldstone deeply. As Wa'el completed the tour neither man could contain his emotion, and the two clasped each other in a tearful embrace'. Daniel Terris, *The Trials of Richard Goldstone* (New Brunswick: Rutgers University Press, 2019) p. 235.

sites and water installations' with bulldozers being deployed for what was called 'infrastructure work'. Testimony given by Israeli soldiers to Breaking the Silence once again confirmed 'in considerable detail information provided to the Mission by witnesses'. (p. 164) As for the destruction of Palestinian houses, a United Nations Development Programme survey reported that '3,354 houses were completely destroyed and 11,112 partially damaged'. (p. 203) Tens of thousands of people were left homeless. And at least 280 schools and kindergartens were 'destroyed or damaged' and '164 pupils and 12 teachers were killed during the military operations'. (p. 210)

With the Israeli refusal to cooperate with the Mission, it was forced to ascertain Israeli policy both before and during Operation Cast Lead from public statements made by senior military officers and politicians. This involved looking at earlier conflicts which showed that collective punishment was central to Israeli military thinking. During the invasion of Lebanon, for example, one general made absolutely clear that if Israeli troops were fired at then 'We will apply disproportionate force . . . and cause great damage and destruction'. Another general recommended that in Lebanon the Israeli objective had to be 'the destruction of the national infrastructure and intense suffering among the population'. (p. 191) And when it came to the attack on Gaza, the *Report* quotes Deputy Prime Minister Eli Yishai as recommending that it should be 'possible to destroy Gaza, so they will understand not to mess with us'. He later urged that Israel should 'destroy 100 homes for every rocket fired' by Hamas, even if they caused no damage or casualties, even if they fell into the sea. This was, of course, the collective punishment of a civilian population and was 'contrary to international humanitarian law'. (p. 195)

At the same time as Gaza was being devastated, the Israelis stepped up their repression on the West Bank and the Mission also investigated this. Here it identified 'an ongoing pattern of ill treatment and use of force' and a routine failure to protect the Palestinian population from settler violence. Palestinians protesting against the attack on Gaza had been shot dead and the Mission 'asked the Government of Israel to explain the increased use of live ammunitions during demonstrations in the West Bank, but has received no reply'. (pp. 226, 228) They saw the increase in repression on the West Bank during the Gaza invasion as part of a general policy of cracking down on Palestinians everywhere. The account of the routine brutalisation of Palestinians by both settlers and soldiers on the West Bank could, of course, have been written today, except that the situation is now considerably worse.

The *Report* concluded in this regard that:

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.

In this respect, the operations were in furtherance of an overall policy aimed at punishing the Gaza population for its resilience and for its apparent support for Hamas

The *Report* also condemned Hamas attacks on Israeli civilians.

The last hundred pages of the book consists of a number of responses both to the *Report* and to the attacks on both the *Report* itself and on Richard Goldstone. One contribution from Henry Siegman looks at the attempted smearing of Goldstone for having been a judge in Apartheid South Africa. Siegman makes the point that

if, as oddly suggested by some members of Netanyahu's government whose own political views are decidedly neo-fascist, Goldstone's role in South Africa's Apartheid government compromised his legitimacy, what legitimacy is left for the State of Israel, which secretly collaborated with that Apartheid government in the 1970s and '80s, supplying it with arms and partnering with it in the development of nuclear technology? (p 388)⁵

The Zionist Response

According to Daniel Terris, the *Report* made Goldstone 'the most hated man in the Jewish world'. He was condemned as 'a self-hating Jew', as the perpetrator of 'a blood libel' and as one Israeli minister pointed out: 'a Jew can also be anti-Semitic and discriminate against and despise and hate our people'. As we have already seen, Netanyahu himself pronounced Goldstone a threat to Israel's security.⁶ The best account of the ferocity of the Zionist response is provided by Norman Finkelstein. One week after the publication of the official *Report*, a Google search 'for the words *Goldstone anti-Semite Gaza* . . . brought up over 75,000 websites'. Goldstone was denounced as an anti-Semite, while the *Report* itself was condemned by one settler leader as 'even worse than the Protocols of the Elders of Zion'.⁷ The denunciations were just as extreme in the United States as in Israel, with John Bolton, for example, calling for the US to defund the UNHCR.

⁵ For the Israel-South Africa connection see Sasha Polakow-Suransky, *The Unspoken Alliance: Israel's Secret Relationship with Apartheid South Africa* (New York: Knopf Doubleday, 2010).

⁶ Terris (see note 4) pp. 241, 255.

⁷ Norman Finkelstein, *Gaza: An Inquest into Its Martyrdom* (Berkeley, California: University of California Press, 2018) p. 95

Among the most venomous of Goldstone's attackers was Alan Dershowitz, a Harvard law professor, a staunch Zionist and later a Trump supporter.⁸ He has written a number of books defending Israel and has two books forthcoming, with titles that tell you everything you need to know about him: *War Against The Jews: How to End Hamas Barbarism* and *War on Woke: Why the New McCarthyism is More Dangerous Than the Old*.⁹ And he went after Goldstone with a grim ferocity: 'Dershowitz alleged that the *Report* "is so filled with lies, distortions and blood libels that it could have been drafted by Hamas extremists"; that it echoed the Protocols of the Elders of Zion and was "biased and bigoted" . . . that Goldstone himself was "a traitor to the Jewish people", an "evil, evil man", and – he proclaimed on Israeli television – on a par with Auschwitz "Angel of Death" Josef Mengele'.¹⁰ All this and more was directed against a liberal Zionist, a strong supporter of Israel, who had dared to document and condemn the brutal collective punishment of the people of Gaza in 2009.

Eventually Goldstone broke under the assault and effectively repudiated the *Report* in April 2011 without consulting, it has to be said, his three fellow authors, who all stood by their findings. As Finkelstein put it at the time: 'Goldstone has done terrible damage to the cause of truth and justice and the rule of law . . . and – most unforgivably – increased the risk of another merciless IDF assault'.¹¹ And that risk was brutally realised with eight days of air raids in December 2012 and another invasion, Operation Protective Edge, in July-August 2014. Collective punishment was once again inflicted on the people of Gaza with merciless efficiency. As Rashid Khalidi has pointed out: the lopsided casualty scale of 43:1 'is telling, as is the fact that the bulk of the Israeli's killed were soldiers while most of the Palestinians were civilians'.¹² These were not wars; they were massacres. What is taking place today is, of course, far more murderous and brutal with both the British and US

⁸ Dershowitz is perhaps most notorious for having been a member of Jeffrey Epstein's defence team in 2006, helping negotiate the plea deal that left him free to continue his predatory career. He was a member of his defence team once again in 2018, although this time Epstein was not so lucky.

⁹ Among Dershowitz's many other publications are *The Case for Israel* (2003); *The Case Against Israel's Enemies: Exposing Jimmy Carter and Others Who Stand in the Way of Peace* (2008); *Terror Tunnels: The Case for Israel's Just War Against Hamas* (2014)

¹⁰ Norman G Finkelstein (see note 7) pp 95-97, 105-106.

¹¹ Norman G Finkelstein, *Goldstone Recants: Richard Goldstone Renews Israel's Licence to Kill* (New York: OR Books 2011) p. 8.

¹² Rashid Khalidi, *The Hundred Years War: A History of Settler Colonial Conquest and Resistance* (London: Profile Books, 2020) p. 222.

governments condoning, indeed complicit, in a protracted massacre.

The British response to Goldstone

By the time Operation Cast Lead was carried out, Gordon Brown had replaced Tony Blair as Labour Prime Minister. Brown was absolutely committed to supporting Israel and to keeping in step with the United States but, at least initially, seems to have been wrong-footed by the Goldstone *Report's* findings. The Obama administration in Washington DC made clear its rejection of the *Report* from the very beginning. Secretary of State Hillary Clinton would later boast of how she had 'defended Israel from isolation . . . including opposing the biased Goldstone report'.¹³ Labour were caught out, however, and when the *Report* went to the UNCHR in the face of stiff US resistance the British took a determined stand. The *Report* was endorsed by 25 votes to 6 with 11 abstentions. The British delegate heroically declined to register a vote at all. This led to Brown falling out with his good friend Netanyahu. There can be no doubt whatsoever that if Blair had still been Prime Minister, Britain would have voted with the United States against the *Report*. But Brown, for whatever reasons, was not yet fully onboard.¹⁴ When the *Report* was voted on by the UN General Assembly (carried by 114 votes to 18 with 44 abstentions), Britain abstained. This failure to wholeheartedly endorse the US-Israeli position earned Brown considerable criticism in British Zionist circles.

What of Blair, however? At this time – hilariously – he was the Middle East peace envoy, appointed immediately after he quit being Prime Minister in June 2007 by the MidEast Quartet (the EU, Russia, the UN and the USA). The man who had invaded Iraq and who, in his memoirs, regretted that they had not gone on to replace the regimes in Syria and Iran, was silent during the 2009 assault on Gaza. However in February 2009 he gratefully accepted the \$1 million Dan David prize prize from Tel Aviv University for 'his exceptional leadership and steadfast determination in helping to engineer agreements and forge lasting solutions to areas in conflict'.¹⁵ As for the Goldstone *Report*, Blair inevitably rejected it.¹⁶ Keir Starmer has obviously learned from Brown's mistake and is very much going down the Blair road, desperately keeping in

¹³ Finkelstein (see note 7) p. 99.

¹⁴ Interestingly, in March 2022 Gordon Brown launched a campaign for a war crimes investigation into Russian conduct in the Ukraine. One of the initial signatories to the petition calling for this was a certain Richard Goldstone.

¹⁵ <<https://www.theguardian.com/politics/2009/feb/16/tony-blair-prize>>

¹⁶ See Jim Holstun, 'Tony Blair and the business of covering up war crimes', The Electronic Intifada 14 October 2009 at <<https://electronicintifada.net/content/tony-blair-and-business-covering-war-crimes/8487>>.

step with the United States no matter what.

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