

The UN Gaza Report: A Substantive Critique

An Expanded Text of Ambassador Dore
Gold's Presentation During an Exchange
with Justice Richard Goldstone at Brandeis
University on November 5, 2009



Jerusalem Center for Public Affairs
המרכז הירושלמי לענייני ציבור ומדינה (ע"ר)



© 2009

Jerusalem Center for Public Affairs

13 Tel Hai Street, Jerusalem, Israel

Tel. 972-2-561-9281 Fax. 972-2-561-9112

Email: jcpa@netvision.net.il

www.jcpa.org

Production Director: Edna Weinstock-Gabay

Production Coordinator: Marissa Gross

Graphic Design: Rami & Jacky / Elisheva - www.ramijaki.co.il

Original PowerPoint Graphics: Yaal Herman

Photo Credit: AP Photo

ISBN 978-965-218-078-0

The UN Gaza Report: A Substantive Critique

An expanded presentation by Ambassador Dore Gold with Lt. Col. (ret.) Jonathan Dahoah Halevi

Brandeis University, November 5, 2009

The UN Gaza Report is the most vicious indictment of the State of Israel bearing the seal of the United Nations since the UN General Assembly adopted its infamous “Zionism is Racism” resolution in 1975, which it subsequently repealed. A special session of the 47-member UN Human Rights Council called for establishing the Fact-Finding Mission that prepared the report through the adoption of Resolution S-9/1 on January 12, 2009. The special session was convened at the request of Cuba, Egypt, and Pakistan. Resolution S-9/1 was notably passed with the support of Russia, China, Arab/Islamic and third world countries, but not with that of a single Western democracy like Canada and the member states of the European Union.

The UN Human Rights Council has a history of clear anti-Israel bias. Indeed, of the eleven special sessions it has convened since being established in 2006, five have dealt with Israel. Back in November 2006, former UN Security-General Kofi Annan strongly criticized how the new UN Human Rights Council functioned right after its creation, noting its anti-Israel emphasis: “Since the beginning of their work, they have focused almost entirely on Israel, and there are other crisis situations, like Sudan, where they have not been able to say a word.”¹ It was the president of the Human Rights Council who established the UN Fact-Finding Mission in April 2009 to investigate Israeli military operations in Gaza between December 27, 2008, and January 18, 2009. He subsequently appointed Justice Richard Goldstone to head the mission. Its report was published in September.

Maligning Israeli Society

The language used by the UN Gaza Report – and the gravity of its allegations about “deliberate” Israeli attacks on civilians – maligns Israeli society as a whole, for the Israel Defense Forces (the IDF) is a citizen’s army, an army which is made up of the people of Israel. The IDF has been imbued for generations to avert

civilian casualties at all costs. Israel's soldiers are taught the story of the Lamed Hey – the 35 college students who comprised a unit of soldiers during Israel's 1948 war of independence. Having captured an Arab shepherd, these young soldiers vigorously debated among themselves whether to let him go even though he might reveal their position. They decided to release him, and indeed he did report their movements to the enemy: all 35 soldiers were killed.

Israelis have repeated the story of the Lamed Hey and taught it to new soldiers for decades – not with regret at the tragic result, but with pride, as an inspiring example of the army's ethos and humanity. They retell the lessons of Kafar Kassam in 1953 where innocents who broke curfew were killed, and since then they have established the principle that when an order is given over which there waves a moral "black flag," that order *must* be disobeyed. What happened in Kafar Kassam is taught in officers' courses in the IDF right up the chain of command from company commanders to brigade commanders.



The ethos of Israel's citizen army

Unquestionably, the IDF has been imbued with a strong sensitivity to averting civilian casualties in war. In 2002, when the IDF carried out an operation in the Jenin refugee camp, which Hamas called "the capital of the suicide bombers," it chose to send infantry in house-to-house combat, to minimize collateral damage to the Palestinian side, even though in so doing it lost 23 Israeli soldiers. In 2003, when the entire leadership of the military wing of Hamas sat together in one room in the Gaza Strip, Israel called off an air strike using munitions that would have destroyed them in one blow, because of the risk to civilian life. That same consideration guided Israel in 2009 when the Hamas command positioned itself in Gaza's Shifa hospital. *That* is the truth of who Israel is, and that is who Israel will always be, regardless of the accusations made against it in this report.

It is for that reason that the UN Gaza Report has been condemned by leading voices all across the Israeli political spectrum. That reaction comes from the mission's attempt to go beyond even its own evidence, and its own sources, to impugn the motives of an entire country, to invent a policy and a nefarious purpose where there was none, to impute the intentions of leaders miles, and months, away from its field of research, to infer ill-will where no such inference

was warranted, or even possible, on the evidence available – that is what drives our reaction. The allegations against Israel – misrepresenting its very purpose and strategic aim in this operation – obfuscate, first, the fundamental fact that Operation Cast Lead – also known as the Gaza War – was a war of self-defense.

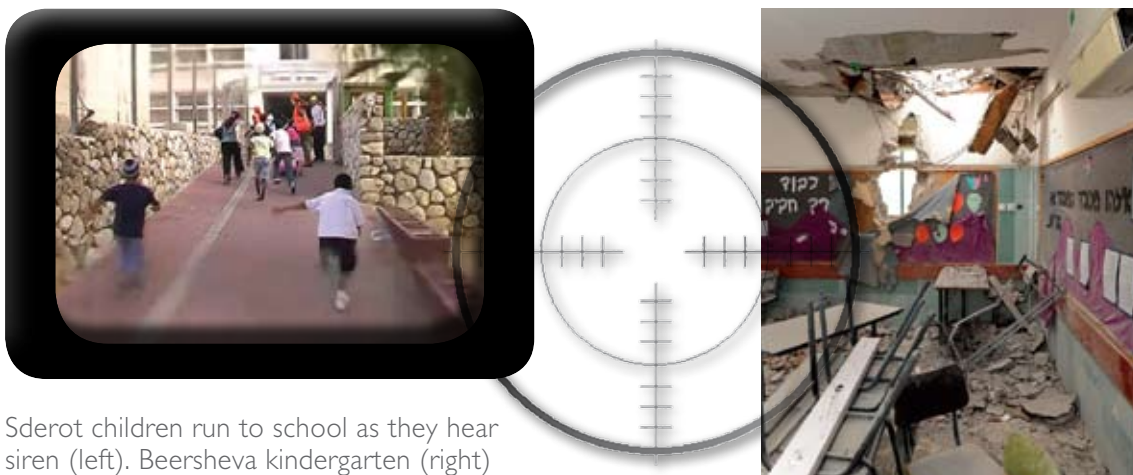
Branded as the Aggressor from the Start

The UN Gaza Report, however, looks for other motives. It claims, for example, in paragraph 1883 in its “Conclusions and Recommendations,” 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-defense, the Mission considers the plan to have been directed, at least in part, at a different target: the people of Gaza as a whole.”

This language reflects what Professor Christine Chinkin, one of the members of this fact-finding mission, charged as a co-signer to a published letter in the *London Times* on January 11, 2009, even before she joined the mission, and only a week after the war began, when judgments would have been completely premature. The letter stated nonetheless: “Israel’s actions amounted to aggression and not self-defense.”

A day later on January 12, 2009, when the UN Human Rights Council in Geneva adopted Resolution S-9/1 that established the international fact-finding mission that Justice Goldstone headed, it already called on the international community to end “the current military aggression in Gaza.” Israel was thus branded an “aggressor” even before the Gaza mission got underway.

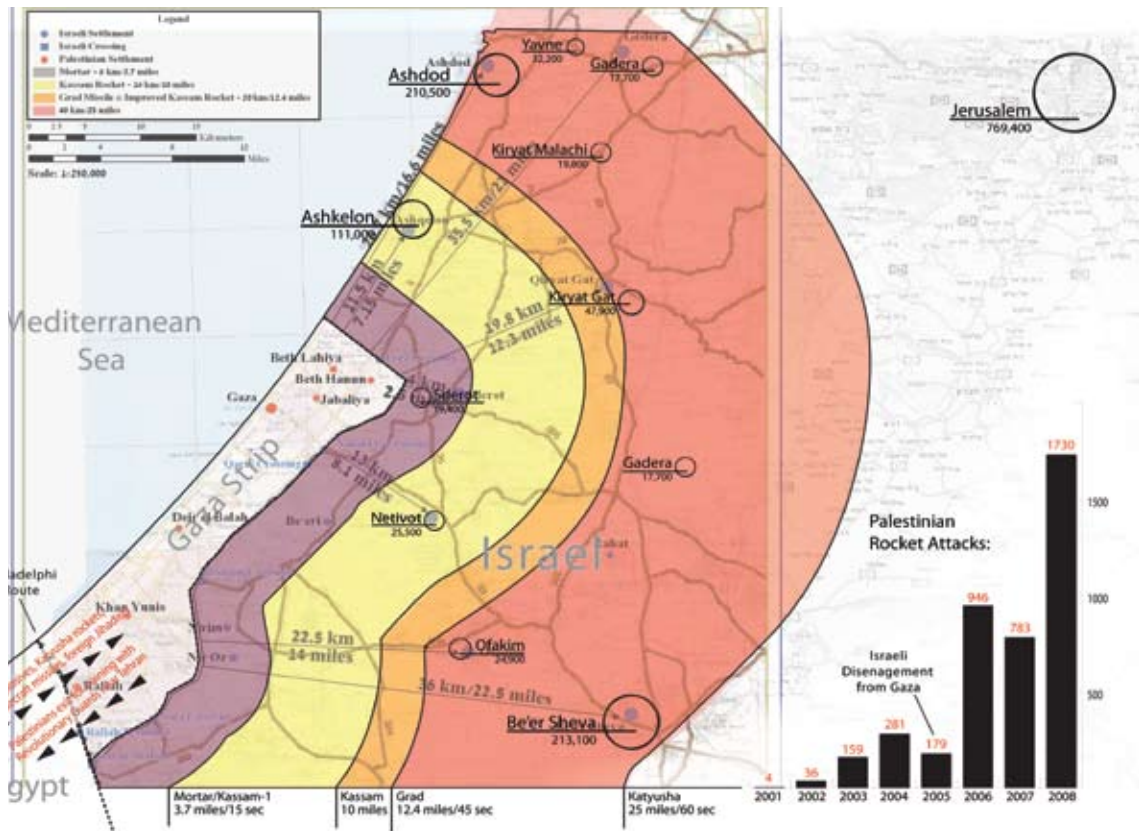
The UN Gaza Report itself does not differ significantly from these positions for it attempts to portray Israel as seeking to punish the Palestinians in Gaza for electing Hamas back in 2006. As it states in its concluding section in paragraph 1884: “In this respect, the operations were in furtherance of an overall policy aimed at punishing the Gaza population for its resilience and for its apparent support for Hamas, and possibly with the intent of forcing a change in such support.”



Sderot children run to school as they hear siren (left). Beersheva kindergarten (right)

This speculation has nothing to do with the reality Israel faced for eight long years as its civilians absorbed 12,000 rocket and mortar attacks. By 2008, this terror spread to many other Israeli cities including Beersheva.

The fact is that by 2008, nearly a million Israelis came under the reach of Hamas rockets launched from Gaza.



The Strategic Background to the Gaza War

It was Israel that withdrew completely from Gaza in September 2005, but Hamas only escalated its rocket attacks in response from the very territory that Israel had evacuated: There was a 500 percent increase in rocket fire the following year, in 2006. This was no longer a territorial conflict or a Palestinian struggle for self-determination, as the report suggests in paragraph 269, since Israel had already withdrawn from the territory in question. The attacks were motivated by Hamas' ideological commitment to waging war on Israel – that had nothing to do with the territories the IDF captured in the 1967 Six-Day War. And it was Hamas that officially declared that it was breaking the Egyptian-sponsored *Tahdi'a* – the Calm or semi-cease-fire – on December 19, 2008, and then further escalated the rocket attacks on the citizens of Israel.

The facts speak for themselves – there is no question who committed aggression against whom. The single reason Israel went to war on December 27, 2008, was to finally bring the rain of rocket fire on its civilians to a halt. Yet the principal problem with the UN Gaza Report is not just the question of how it explained the motives of Israel's Gaza operation. It is the repeated claim in the report that Israel, as part of its official policy, deliberately killed Palestinian civilians.

UN Gaza Report: The Main Accusation Against Israel: "Deliberate Attacks Against the Civilian Population" (XI)

"a deliberately disproportionate attack designed to punish, humiliate and terrorize a civilian population." (1893)

"a deliberate policy of disproportionate force aimed not at the enemy but at...the civilian population." (1886)

"The repeated failure to distinguish between combatants and civilians...the result of deliberate guidance issued to soldiers." (1893)

Among the key arguments are three:

The Evidence of Deliberate Israeli Attacks on Civilian Targets in the UN Gaza Report:

1. Deliberate Attacks on Non-Combatants
2. The Scale of the Destruction
3. Attacks on Mosques

First, the report alleges that Israel deliberately attacked non-combatants as a matter of policy. Second, the report relies on the scale of destruction in the Gaza Strip to make its point. Third, it discusses the bombing of public buildings such as mosques. The report does not seriously consider the fundamental fact that Hamas intentionally placed military camps, weapons depots, and rocket-launching areas right in the heart of civilian population centers.



Hamas Military Activity in Northern Gaza

How Israel Tried to Minimize Civilian Casualties

When any state facing repeated attacks discovers that its enemy has embedded its military and rocket-launching apparatus in heavily populated civilian areas, it has several options. It can attack the whole area indiscriminately, like the Russian Army in Chechnya. It can simply give up, and take no steps to protect its own civilians – in the Israeli case that would amount to giving Hamas a license to kill. Israel chose a third option: to do as much as possible to separate the civilians from the military targets and minimize casualties to the greatest possible extent. So for residential structures that Israel identified as storing Kassam or Grad rockets, Israel would:

- » **First**, break into local radio transmissions, and urge civilians to evacuate.
- » **Second**, it would drop leaflets on the target areas by the thousands, warning of an impending attack.

الى سكان قطاع غزة
جيش الدفاع الاسرائيلي يعمل ضد الحركات والعناصر الذين يقومون باعمال ارهابية ضد
مواطني دولة اسرائيل.

جيش الدفاع الاسرائيلي سيضرب ويدمر كل مبنى وموقع يوجد فيه ذخيرة وعتاد عسكري.
ابتداء من نشر هذا البيان, كل من توجد ذخيرة وعتاد عسكري في بيته فهو معرض للخطر

Translation:

To the residents of the Gaza Strip:

The IDF will act against any movements and elements conducting terrorist activities against the residents of the State of Israel.

The IDF will hit and destroy any building or site containing ammunition and weapons. As of the publication of this announcement, anyone having ammunition and/or weapons in his home is risking his life and must leave the place for the safety of his own life and that of his family.

You have been warned.

IDF Command

وعليه مغادرة المكان كي يحافظ على

حياته وحياء أسرته. وقد اعذر من انذر.

- » **Third**, it would send messages to the cell phones or house phones of residents whose buildings would possibly be targeted, with the intention of ensuring that civilians leave the structures.



Hamas television interview confirms receipt of Israeli telephone warning to Gaza resident

Cellphone Message
Text 12/27/2008
(Representative)



- » **The whole time an Israeli unmanned aerial vehicle over the target area monitored whether the civilians had left.**
- » Then, if civilians did not leave the building, the IDF would fire a special warning shot at the roof of the building, so as to cause the residents to leave.

Finally, if the air force had launched a strike at a Hamas unit and civilians unexpectedly appeared, the mission would be aborted after launch and the weapon would be veered away from its original target to an empty area, so as to avoid harming the innocent.

Israel's strategy during the Gaza War was to separate Palestinian civilians from the Hamas military, while Hamas sought to merge them, using civilians as human shields.



Hamas television reports the use of the Palestinian population as human shields in the Gaza War (left). Fathi Hammad (right), a leading member of the Hamas Parliament--and today the Hamas Interior Minister-- praised the use of human shields earlier in 2008.

Deliberate Attacks on Non-Combatants:

"The mission found numerous instances of deliberate attacks on civilians and civilian objects (individuals, whole families, houses, mosques) in violation of the fundamental international humanitarian law principle of distinction, resulting in deaths and serious injuries." (1921)

Would an army with a policy of deliberately killing civilians, as the UN Gaza Report alleges, go through such an elaborate and costly effort to move them out of harm's way? Would a state determined to kill civilians redirect its fire away from them whenever possible? Is there another army in the world that has taken the steps that Israel adopted?

The Palestinian Police Were Combatants

The charge leveled by the report that Israel intentionally struck noncombatants is raised specifically in the case of the Israeli attacks on December 27 against the Palestinian police, which the report assumes was a completely civilian force. We might infer they were traffic cops, protecting public order. But that was not the case.

A review of the actual members of the police force, that Israel fought against during the war, shows that no less than 91 percent of the fatalities among the Palestinian police (313 out of 343) were members of the Izz ad-Din al-Qassam military wing of Hamas or other terrorist groups. Indeed, one of these “law-enforcement” officers was responsible for the murder of three U.S. security men in northern Gaza in 2003; another was even a member of an al-Qaeda affiliate, *Jaysh al-Umma*.

The Hamas Police as a Case Study

Among the 89 killed in the IDF attack on police headquarters on December 27, 81 (91%) were members of armed terrorist groups. Among them:

Omar Bakr Shimali (b. 1988) was a member of the **Izz ad-Din al-Qassam Brigades**. Shimali began as an activist in the Hamas student organization (al-Kutla al-Islamiya). He was assigned to a “Special Unit” and was stationed at front-line positions. At the same time, Shimali was active in the military police and worked at police headquarters.

Mohammed Khaled Shahiber (b. 1987) joined the **al-Qassam Brigades** in 2007 and was stationed at front-line positions.

Bilal Mahmoud Omar (b. 1989) joined the Muslim Brotherhood in 2006 and at the same time was active in the Hamas security apparatus. In 2007 he joined the **al-Qassam Brigades** and was assigned to forward positions. He served as a security guard at the home of Police Commander Tawfik Jabber.

Sidqi Ismail Hamad (b. 1983) was active in Hamas and the Muslim Brotherhood, and in mid-2008 joined the **al-Qassam Brigades**. He served as a bodyguard for Hamas Prime Minister Ismail Haniyeh. He was an officer with the rank of lieutenant in the Security and Protection apparatus.

Mohammed Tawfik al-Nimra (b. 1986) joined Hamas in 2003 and also swore loyalty to the Muslim Brotherhood. In 2006 he joined the **al-Qassam Brigades** and was stationed in front-line positions.

Mohammed Ziad al-Nabih (b. 1981) joined Hamas and the Muslim Brotherhood in 1995 and the **al-Qassam Brigades** in 2004.

Nasser Abdallah al-Ghara (b. 1962) joined Hamas and the Muslim Brotherhood in 1989, and in 2004 he joined the **al-Qassam Brigades**. He was active in the engineering unit that was engaged in preparing explosive charges.

Nahez Salim abu-Namous (b. 1989) joined the **al-Qassam Brigades** in 2007 and underwent infantry and mortar training.

Hussam Muhammed al-Majaida (b. 1982) joined Hamas in 2004 and a year later the **al-Qassam Brigades**. He was active in the Executive Force of the Palestinian Police established by Hamas in 2006.

Hassan Maher Hassan Aruk (b. 1985) was active in the **al-Qassam Brigades** and was stationed in front-line positions.

Hamza Oudeh Muhammad al-Khalidi (b. 1983) was active in **Jaysh al-Ummah**, an al-Qaeda affiliate in the Gaza Strip.

Muhammad al-Dasuki (b. 1982) active in the **Popular Resistance Forces**, suspected of involvement in the terrorist attack against a U.S. convoy in the Gaza Strip in October 2003.

Note: The UN Gaza Report itself establishes that :

“ if the members of the law enforcement agency are at the same time members of an armed group, they would be combatants.” (431)



The Hamas "Policemen"

Palestinian websites displayed pictures of the same Palestinian policemen with automatic rifles and rocket-propelled grenades – not exactly the equipment needed for giving out traffic tickets. In paragraph 431, the UN Gaza Report acknowledges that “if the members of the law enforcement agency are at the same time members of an armed group, they would be combatants.” Given the facts presented here, the assertion that the Palestinian police in Gaza were innocent non-combatants is plainly untrue.

Hamas Explosives Were Responsible for Much of the Destruction

Another source of evidence for the UN Gaza Report’s main argument – that Israel deliberately harmed civilians – is the scale of destruction in the Gaza Strip.

The Scale of Destruction

"During its visits to the Gaza Strip, the Mission witnessed the extent of the destruction of residential housing caused by air strikes, mortar and artillery shelling, missile strikes, the operation of bulldozers and demolition charges. The destruction of housing was carried out in the absence of any link to combat operations." (53)

There is no dispute that large numbers of houses and public buildings were destroyed in combat. But to place the entire blame on Israel ignores the fundamental fact that whole parts of Gaza were booby-trapped with explosives by Hamas, that scores of tunnels storing explosives were bored throughout populated areas of the Gaza Strip, and that often Israeli strikes were followed by secondary and tertiary explosions clearly visible on video tapes of the bombing – that could not have been caused by the Israeli strikes alone. They were, rather, caused by the vast arsenal that Hamas planted throughout the Gaza Strip.

Booby-trapped House



Photocopy of confiscated map showing booby-trapped neighborhood of Al-Azatra



Booby-trapped neighborhood

Finally, the report cites the bombing of mosques, stating it is unable to make any determination as to whether any weapons were stored there, as Israel had reported.

Attacks on Mosques
"The Mission is unable to make any determination on the general allegation that Palestinian armed groups used mosques for military purposes." (486)

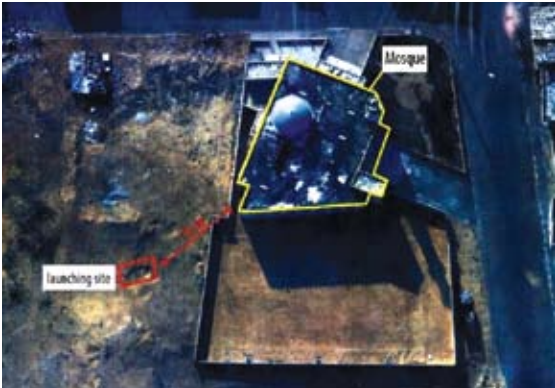
As late as October 2009, Desmond Travers, one of the members of Justice Goldstone’s mission, was still claiming: “We found no evidence that mosques were used to store munitions. Those charges reflect Western perceptions in some quarters that Islam is a violent religion.” Yet reality on the ground looked very different from Travers’ predispositions.²



Rocket launch from mosque



Smoke from rocket with mosque minaret



Rocket launch site adjacent to mosque



Anti-aircraft weapon stored in Zeitoun Mosque

Unfortunately, the militarization of mosques is a practice we have seen intensified across the Middle East in recent years, which the report ignores. It was seen when the U.S. found weapons and insurgents inside 60 mosques in Fallujah in 2004.³ In Gaza, there was ample evidence to conclude that the mosques were militarized, and were being used to launch rockets. Mosques also were used to store Kassam and Grad rockets. When Israel struck these facilities there were obvious secondary and tertiary explosions from the weaponry within. Hamas itself attacked an armed Salafist mosque belonging to its opponents in Rafah on August 14, 2009.

It is noteworthy that the report bases its charges on the testimony of Israeli NGOs, most notably B'Tselem and Breaking the Silence. However, these very sources have made statements and produced evidence that contradicts the report's primary conclusions.

Sources Used by the UN Gaza Report Which Raise Doubts About Reliability or Veracity of its Conclusions:

"I was disturbed by the framing of Israel's military operation as part of 'an overall policy aimed at punishing the Gaza population for its resilience.' The facts presented in the report itself would not seem to support such a far-reaching conclusion. In light of the sweeping conclusions regarding Israel, the very careful phrasing regarding Hamas abuses is particularly conspicuous. The mission did not find conclusive evidence regarding Hamas' use of mosques and civilian buildings for military purposes, nor does it criticize Hamas' firing from and shielding themselves within civilian areas. The evidence accumulated over the past eight months regarding both these phenomenon cannot be ignored."

Jessica Montell, Executive Director of B'Tselem Israeli Human Rights NGO Extensively Cited in the Gaza Report

"There were briefings by commanders on the importance of not harming civilians and property in the houses that the forces entered and also an order was given that forbids sleeping on Palestinians' beds."

"There was an explicit order not to shoot towards people carrying white flags."

"The assumption was that if civilians are encountered they are to be sent to an area far from the theater of combat. The soldiers reported on their communications devices the movement of civilians in order to prevent their being harmed by other forces."

Testimonies that Were Left Out of the UN Gaza Report: "Soldiers Breaking the Silence"

The Reliability of Reports of Deliberate Civilian Casualties

The UN Gaza Report itself contains information that raises serious doubts about the veracity of some of its harshest conclusions about Israeli military behavior. In paragraph 440, it asserts: “The Mission notes that those interviewed in Gaza appeared reluctant to speak about the presence of or conduct of hostilities by the Palestinian armed groups. Whatever the reasons for their reluctance, the Mission does not discount that the interviewees’ reluctance may have stemmed from a fear of reprisals.”

Yet in order to establish Israeli responsibility for the deliberate killing of civilians, the report relies on the testimony of Palestinians, who claimed that there were Palestinian fatalities in 11 specific instances in which, they argued, there was no armed combat in the area. These are among the most serious instances of civilian casualties in the report. Given the language of the report noted above, Palestinians were fearful to report Palestinian armed actions against the IDF that would have justified Israeli counter-fire. In short, Palestinian reports of Palestinian civilian casualties from Israeli fire, in the absence of any armed conflict, should have been regarded as being of highly questionable reliability.

The methodology of the mission made this problem of its coverage of Palestinian militant attacks even more severe. It interviewed a Hamas official, Mohammad Fuad Abu Askar, without asking whether he or his son Khaled, who was killed by IDF fire, were members of the Izz ad-Din al-Qassam brigades (both were). The mission did not ask whether members of the al-Samouni family were part of any armed groups. From the website of the Islamic Jihad, however, it is clear that Mohammed Ibrahim al-Samouni was an Islamic Jihad operative and that the organization engaged in active combat with the IDF, detonating bombs and firing RPGs in the Zeitoun area, where Palestinian witnesses appearing before the mission said no combat occurred.



Khaled Abu Askar pictured at al-Qassam’s website and Mohammad Ibrahim al-Samoumi in an Islamic Jihad poster



Colonel Richard Kemp

Colonel Richard Kemp, who led British forces in Afghanistan, studied Israel's tactics in Gaza and, in testimony before the United Nations Human Rights Council, best summarized the reality of what transpired during the Gaza War regarding the actions of the IDF: "During Operation Cast Lead, the Israel army did more to safeguard the rights of civilians in a combat zone than any other army in the history of warfare. Israel did so while facing an enemy that deliberately positioned its military capability behind the human shield of the civilian population."

Blatant Political Bias

The striking feature of the UN Gaza Report's conclusions is that there is no ultimate Hamas responsibility for the firing of rockets or the death and destruction that occurred in the Gaza Strip. There are unidentified "Palestinian armed groups." There is no civilian chain of command, headed by Hamas, financing and ordering the rocket attacks. It is as though the report accepts at face value Hamas' argument that it had nothing to do with the "armed groups" attacking Israel, although the Hamas Interior Minister in Gaza notably admitted on October 28, 2009, that "we work in coordination with the resistance factions to make it easier for them to carry out their missions."⁴

Careful in its phrasing, the UN Gaza Report claims that despite the "indications" that Palestinian armed groups launched rockets from urban areas, there was no "direct evidence" that they had "specific intent" to shield their rocket forces in

densely-populated urban areas. However, photographic evidence (see below) shows clearly that Hamas launched rockets from populated areas, making the report's use of the word "indications" seem like its authors were deliberately downplaying the gravity of Hamas behavior. The report concludes that Hamas statements encouraging the use of human shields cannot be "adduced as evidence" (477) of a deliberate Hamas policy that "forced Palestinian civilians to shield military objectives."(478)



Missile launch from Gaza

In contrast, the UN Gaza Report does not hesitate to impute motive and intent – malicious intent – to Israeli officials, without any testimony or evidence to that effect. It asserts that “statements by political and military leaders prior to and during the military operations in Gaza leave little doubt that disproportional destruction and violence against civilians were part of a deliberate policy.”

There are no quotes of Israel's prime minister, defense minister, or chief of staff to prove this point. Thus, while the report cannot establish the intent of Hamas to use the Palestinians as human shields, it is absolutely certain beyond a shadow of a doubt about Israeli intent to deliberately attack Palestinian civilians. There is no other way to characterize this transparent double standard in the use of evidence except as blatant political bias.

Long-Term Effects of the Gaza Report

What are the longer international political effects of this UN Gaza Report?

First, it is a victory for Hamas and its international terrorist strategy, which can be seen in its reaction to the report. As the second-in-command of Hamas, Musa Abu Marzuq, said in an interview with *Al Arabiya* in October following the UN Human Rights Council endorsement of the report: "Hamas approves the international stance regarding the report." Abu Marzuq went on to say: "The report acquits Hamas almost entirely."⁵

Indeed, the report's effects will be measured by its impact on the behavior of the parties themselves. What is clear from these statements by Hamas is that there is absolutely no reason to believe that the report will cause Hamas to revise its own practice of directing rocket fire against Israeli civilians.

Indeed, the principal remedial steps suggested in the report, in its recommendations to the General Assembly and elsewhere, are directed exclusively at Israel.⁶ For example, Israel is instructed to end the use of certain munitions, while no demand is made of Hamas with respect to the rockets it used against Israeli civilians.

Second, it calls for an escrow account to be established for compensating Palestinian victims, and for Israel to contribute to that account. But no similar measure of remuneration is proposed for Israel's victims.

Third, in its executive summary, the report calls on state parties to the Geneva Conventions to open investigations of Israelis and to base these legal actions on universal jurisdiction (paragraph 127). This one-sided recommendation will lead to more politicized complaints against Israeli officers in Europe, while Hamas commanders will be untouched.

It is to be remembered that Hamas is an international terrorist organization according to both the U.S. government, since 1995, and more recently by the European Union. Global terrorist organizations from al-Qaeda to Hizbullah are likely to examine how an official UN investigation exonerated Hamas' tactics of using civilians as human shields, and apply the very same tactics more widely against Western armies in the future, whether in Afghanistan, Iraq, or in other theaters of combat. Thus, the one-side results of the UN Gaza Report not only serve as a blow to Israel's security, but also to the ongoing war against international terrorism that has hardly abated.

Finally, had the authors of the UN Gaza Report seriously sought to investigate the sources of the war in Gaza, they would have asked why Hamas persisted in attacking Israel – escalating the rate of rocket fire – even after Israel withdrew from the Gaza Strip in 2005. They might have then discovered how Hamas used its ideologically-driven incitement against Israel as a key component of its political power.

Looking back at the reasons why the war in Yugoslavia broke out in the early 1990s, Ambassador Richard Holbrooke, the architect of the Dayton Agreement that brought the fighting to an end, concentrated on the role of Serbian incitement in the pre-war years.⁷ He focused on how Yugoslav leaders deliberately inflamed racial hatred for their own political purposes. He paid particular attention to a previous U.S. ambassador's report about the role of "violence-provoking nationalism" that had been inculcated through television broadcasts. It is no wonder that the architects of the 1948 Genocide Convention already viewed incitement to genocide as a key early warning sign for impending mass violence that had to be prevented.



Yunis al-Astal (left) and Ziad Abu al-Hajj (right)

Back in 1988, the Hamas Covenant plainly stated: "Israel will exist and will continue to exist until Islam will obliterate it." But now its ideology has become outright genocidal. For example, Yunis al-Astal, the Dean of the Faculty of Shariah at Gaza's Islamic University and a senior Hamas parliamentarian, employs the theme of exterminating the Jews – using the Arabic term, *Mahraqa* (literally, burning or Holocaust).⁸ Speaking on Hamas television on July 13, 2008, Muhsen Abu Ita, a Hamas cleric, plainly stated: "The annihilation of the Jews in Palestine is one of the most splendid blessings for Palestine."⁹ The same theme was also sounded on Hamas television on April 3, 2009, by the Hamas mosque preacher Ziad Abu al-Hajj.¹⁰ This proliferating language of genocidal hatred is being pumped into the Hamas discourse about the conflict.

But in investigating the violations of international humanitarian law in the Gaza conflict and in trying to understand its root causes, the systematic incitement by Hamas of the Palestinian population was missed by the UN Gaza Report, like so many other hard truths about the war that Hamas imposed on Israel.

Former Israeli UN Ambassador Dore Gold is President of the Jerusalem Center for Public Affairs. On November 5, 2009, he discussed the UN Gaza Report with Justice Richard Goldstone at Brandeis University.

Lt. Col. (ret.) Jonathan Dahoah Halevi is the research director for the Orient Research Group and a fellow of the Jerusalem Center for Public Affairs. He previously served as a senior adviser for political planning in Israel's Foreign Ministry and as head of the data and information branch in the IDF Spokesperson's Unit.

Notes

- 1 Benny Avni, "Annan Criticizes Human Rights Council's Resolutions on Israel, Darfur Crisis," *New York Sun*, November 29, 2006, <http://www.nysun.com/foreign/annan-criticizes-human-rights-councils/44260/>.
- 2 Ken Silverstein, "Six Questions for Desmond Travers," *Harper's*, October 29, 2009, <http://harpers.org/archive/2009/10/hbc-90006003>.
- 3 "Marines Find Weapons Throughout Fallujah," ABC News, November 24, 2004, <http://abcnews.go.com/WNT/story?id=280897>.
- 4 "The interior minister of the de facto Hamas administration describes the support his office gives the terrorist organizations operating in the Gaza Strip. His description contradicts the claim the Hamas administration made to the Goldstone Committee, according to which it had no direct or indirect links to the terrorist organizations," Intelligence and Terrorism Information Center, October 29, 2009, http://www.terrorism-info.org.il/malam_multimedia/English/eng_n/html/hamas_e087.htm.
- 5 "Palestinians Approve of UN Resolutions," *Jerusalem Post*, October 16, 2009, <http://www.jpost.com/servlet/Satellite?pagename=JPost/JPArticle/ShowFull&cid=1255694826067>.
- 6 Initial response to report of the fact-finding mission on Gaza established pursuant to Resolution S-9/I of the Human Rights Council, <http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Hamas+war+against+Israel/Initial-response-goldstone-report-24-Sep-2009.htm>.
- 7 Richard Holbrooke, *To End a War* (Random House:1998), p. 24.
- 8 Jonathan Dahoah Halevi, "The Penetration of Genocidal Doctrines about the Jews into Hamas Ideology," Jerusalem Center for Public Affairs, May 16, 2008 (Hebrew).
- 9 The broadcast has been translated by MEMRI and is available at <http://www.youtube.com/watch?v=xHsSb854f0Q&feature=related>.
- 10 Itamar Marcus and Barbara Crook, "Hamas Racism: Jews are evil – 'Their children will be exterminated.' Imam who participated in 'Congress of Imams and Rabbis for Peace' calls for extermination of Jews," Palestinian Media Watch, April 29, 2009, http://www.pmw.org.il/Bulletins_Apr2009.htm#b190409.