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Il dr. Goldstone e Mr. Hide (con una "i")

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Nota

Nella prima parte sono riportati articoli e dichiarazioni di tre dei quattro membri della commissione Goldstone e del portavoce del Consiglio dei diritti umani dell'ONU.

Nella seconda parte alcuni commenti importanti sulla vicenda di Omar Barghouti, Ilan Pappé, Hatim Kanaaneh, Celine Hagbard, Jerry Haber, Chantal Meloni, John Dugard and Gideon Levy.

CONCLUSIONE: IL RAPPORTO RIMANE A TUTTI GLI EFFETTI VALIDO.

ISM-Italia,
Torino, 5 aprile 2011

Prima parte

Le posizioni dei componenti la commissione Fact Finding Mission on Gaza Conflict e del Consiglio dei Diritti Umani dell'ONU

Reconsidering the Goldstone Report on Israel and war crimes

By Richard Goldstone, Friday, April , 8:42 PM

We know a lot more today about what happened in the Gaza war of 2008-09 than we did when I chaired the fact-finding mission appointed by the U.N. Human Rights Council that produced what has come to be known as the Goldstone Report. If I had known then what I know now, the Goldstone Report would have been a different document.

The final report by the U.N. committee of independent experts — chaired by former New York judge Mary McGowan Davis — that followed up on the recommendations of the Goldstone Report has found that “Israel has dedicated significant resources to investigate over 400 allegations of operational misconduct in Gaza” while “the de facto authorities (i.e., Hamas) have not conducted any investigations into the launching of rocket and mortar attacks against Israel.”

Our report found evidence of potential war crimes and “possibly crimes against humanity” by both Israel and Hamas. That the crimes allegedly committed by Hamas were intentional goes without saying — its rockets were purposefully and indiscriminately aimed at civilian targets.

The allegations of intentionality by Israel were based on the deaths of and injuries to civilians in situations where our fact-finding mission had no evidence on which to draw any other reasonable conclusion. While the investigations published by the Israeli military and recognized in the U.N. committee’s report have established the validity of some incidents that we investigated in cases involving individual soldiers, they also indicate that civilians were not intentionally targeted as a matter of policy.

For example, the most serious attack the Goldstone Report focused on was the killing of some 29 members of the al-Simouni family in their home. The shelling of the home was apparently the consequence of an Israeli commander’s erroneous interpretation of a drone image, and an Israeli officer is under investigation for having ordered the attack. While the length of this investigation is frustrating, it appears that an appropriate process is underway, and I am confident that if the officer is found to have been negligent, Israel will respond accordingly. The purpose of these investigations, as I have always said, is to ensure accountability for improper actions, not to second-guess, with the benefit of hindsight, commanders making difficult battlefield decisions.

While I welcome Israel’s investigations into allegations, I share the concerns reflected in the McGowan Davis report that few of Israel’s inquiries have been concluded and believe that the proceedings should have been held in a public forum. Although the Israeli evidence that has emerged since publication of our report doesn’t negate the tragic loss of civilian life, I regret that our fact-finding mission did not have such evidence explaining the circumstances in which we said civilians in Gaza were targeted, because it probably would have influenced our findings about intentionality and war crimes.

Israel’s lack of cooperation with our investigation meant that we were not able to corroborate how many Gazans killed were civilians and how many were combatants. The Israeli military’s numbers have turned out to be similar to those recently furnished by Hamas (although Hamas may have reason to inflate the number of its combatants).

As I indicated from the very beginning, I would have welcomed Israel’s cooperation. The purpose of the Goldstone Report was never to prove a foregone conclusion against Israel.

I insisted on changing the original mandate adopted by the Human Rights Council, which was skewed against Israel. I have always been clear that Israel, like any other sovereign nation, has the right and obligation to defend itself and its citizens against attacks from abroad and within. Something that has not been recognized often enough is the fact that our report marked the first time illegal acts of terrorism from Hamas were being investigated and condemned by the United Nations. I had hoped that our inquiry into all aspects of the Gaza conflict would begin a new era of evenhandedness at the U.N. Human Rights Council, whose history of bias against Israel cannot be doubted.

Some have charged that the process we followed did not live up to judicial standards. To be clear: Our mission was in no way a judicial or even quasi-judicial proceeding. We did not investigate criminal conduct on the part of any individual in Israel, Gaza or the West Bank. We made our recommendations based on the record before us, which unfortunately did not include any evidence provided by the Israeli government. Indeed, our main recommendation was for each party to investigate, transparently and in good faith, the incidents referred to in our report. McGowan Davis has found that Israel has done this to a significant degree; Hamas has done nothing.

Some have suggested that it was absurd to expect Hamas, an organization that has a policy to destroy the state of Israel, to investigate what we said were serious war crimes. It was my hope, even if unrealistic, that Hamas would do so, especially if Israel conducted its own investigations. At minimum I hoped that in the face of a clear finding that its members were committing serious war crimes, Hamas would curtail its attacks. Sadly, that has not been the case. Hundreds more rockets and mortar rounds have been directed at civilian targets in southern Israel. That comparatively few Israelis have been killed by the unlawful rocket and mortar attacks from Gaza in no way minimizes the criminality. The U.N. Human Rights Council should condemn these heinous acts in the strongest terms.

In the end, asking Hamas to investigate may have been a mistaken enterprise. So, too, the Human Rights Council should condemn the inexcusable and cold-blooded recent slaughter of a young Israeli couple and three of their small children in their beds.

I continue to believe in the cause of establishing and applying international law to protracted and deadly conflicts. Our report has led to numerous "lessons learned" and policy changes, including the adoption of new Israel Defense Forces procedures for protecting civilians in cases of urban warfare and limiting the use of white phosphorus in civilian areas. The Palestinian Authority established an independent inquiry into our allegations of human rights abuses — assassinations, torture and illegal detentions — perpetrated by Fatah in the West Bank, especially against members of Hamas. Most of those allegations were confirmed by this inquiry. Regrettably, there has been no effort by Hamas in Gaza to investigate the allegations of its war crimes and possible crimes against humanity.

Simply put, the laws of armed conflict apply no less to non-state actors such as Hamas than they do to national armies. Ensuring that non-state actors respect these principles, and are investigated when they fail to do so, is one of the most significant challenges facing the law of armed conflict. Only if all parties to armed conflicts are held to these standards will we be able to protect civilians who, through no choice of their own, are caught up in war.

The writer, a retired justice of the Constitutional Court of South Africa and former chief prosecutor of the U.N. International Criminal Tribunals for the former Yugoslavia and Rwanda, chaired the U.N. fact-finding mission on the Gaza conflict.

Hina Jilani, Member of UN Fact Finding mission on Gaza Conflict insists report still stands unchanged, Monday, 04 April 2011

Hina Jilani: "Absolutely not; no process or acceptable procedure would invalidate the UN Report; if it does happen, it would be seen as a 'suspect move'".

EXCLUSIVE INTERVIEW

In what has been the first statement after the op-ed article by Judge Richard Goldstone by a member of the UN Fact Finding mission on the Gaza conflict, Hina Jilani, affirmed nothing will change the substance of the original report submitted to the UN.

In an exclusive interview given to the Middle East Monitor (MEMO), the internationally recognized human rights lawyer dismissed claims that the op-ed article by Judge Richard Goldstone in the Washington Post (1 April 2011) would make any difference to the report. She said, "Ultimately, the UN Report would not have been any different to what it was".

Jilani, it would be recalled, served as the United Nations Special Representative of the Secretary-General on Human Rights Defenders from 2000 to 2008. She was also appointed to the UN International Fact-Finding Commission on Darfur, Sudan in 2006.

Ms Jilani denies Goldstone's op-ed article expresses any actual regret. "Absolutely not; no process or acceptable procedure would invalidate the UN Report; if it does happen, it would be seen as a 'suspect move'".

Looking ahead, she insisted the Report "is and remains an important report." She added that the UN Security Council now needs to investigate further to see how both parties - Israel and Hamas - have violated international law: "The UN cannot allow impunity to remain," she stressed, "and will have to act if it wants to remain a credible international governing body."

Although the fact finding report is often referred to as the 'Goldstone Report', the mission was actually comprised of four members. In addition Goldstone and Jilani, other members were Christine Chinkin, Professor of International Law at the London School of Economics and Political Science and Desmond Travers, a former colonel in the Irish Defence Forces and member of the Board of Directors of the Institute for International Criminal Investigations.

Dichiarazione di Cedric Sapey, a spokesperson for the Human Rights Council

And here is Cedric Sapey, a spokesperson for the Human Rights Council, also standing up for the report, from the same piece:

"UN reports are not canceled on the basis of an op-ed in a newspaper," spokesman Cedric Sapey told The Associated Press.

"Various resolutions passed by the Geneva-based council and the UN General Assembly in New York would also have to be repealed by those bodies," he said.

Six Questions for Desmond Travers on the Goldstone Report By Ken Silverstein

Desmond Travers was one of the four members of the United Nations Fact Finding Mission on the Gaza Conflict, which produced the controversial Goldstone Report. Travers is a retired Colonel of the Army of the Irish Defence Forces. His last appointment was as Commandant of its Military College. He also served in command of troops with various UN and EU peace support missions. I recently spoke to Travers by phone about the report. This interview has been edited for length and clarity.

1. Were you surprised by the criticism of the report?

There was a lot of criticism even before the report came out, primarily against individuals, especially Justice Richard Goldstone. So we were not unduly surprised by the whinging when the report was released, except for the intensity and viciousness of the personal attacks. Justice Goldstone has publicly invited the critics, especially within the U.S. government, to come forward with substantive evidence of incorrect or inaccurate statements. But there has been no credible criticism of the report itself or of the information elucidated in it.

2. Douglas Griffiths, the American delegate to the Human Rights Council, said, "While Justice Goldstone acknowledged Hamas's crimes, in examining Israel's response sufficient weight was not given to the difficulties faced in fighting this kind of enemy in this environment." Is that a fair criticism?

I was a soldier for 42 years and I reject that criticism, which seems intended to excuse alleged Israeli breaches of the laws of warfare. I retired as a colonel in the Irish army in 2001 having served in war zones in Cyprus, Lebanon, Bosnia and Croatia, and I would not underestimate the challenge of combat in built-up areas. Nonetheless, armies have never had the technological luxury that they do today when it comes to taking out targets without inflicting collateral damage.

3. What's your opinion of the overall U.S. reaction to the report?

The Obama Administration said that Israel should carry out an investigation into its actions, and that's an enormously important statement for the U.S. to make. In the view of the fact-finding mission the core message of the report is that there has to be an end to impunity to commit war crimes.

4. Critics have also said that Hamas deliberately inserted its fighters among civilians and that doing so increased the civilian toll. Did you find that to be the case?

We found no evidence that Hamas used civilians as hostages. I had expected to find such evidence but did not. We also found no evidence that mosques were used to store munitions. Those charges reflect Western perceptions in some quarters that Islam is a violent religion. Gaza is densely populated and has a labyrinth of makeshift shanties and a system of tunnels and bunkers. If I were a Hamas operative the last place I'd store munitions would be in a mosque. It's not secure, is very visible, and would probably be pre-targeted by Israeli surveillance. There are a many better places to store munitions. We investigated two destroyed mosques—one where worshippers were killed—and we found no evidence that either was used as anything but a place of worship.

There is a sinister and foolish notion among certain proponents of insurgency warfare that to fight an insurgency means that civilians will inevitably be killed. But if you give the state authority to be indiscriminate with the lives of civilians in pursuing insurgents, it plays into the hands of the insurgents. Dead bodies are grist to the insurgents' mill: if the dead are on your side they represent insurgent victories and if the dead are on their side

then they have martyrs.

5. What is your view of the claim by Israeli officials that the IDF is the most "moral" army in the world?

Given the tactics, the weapons used, and the indiscriminate targeting, I think this is a dubious claim.

6. What other issues do you think need to be addressed?

We were disturbed by the lethality and toxicity of weapons used in Gaza, some of which have been in Western arsenals since the Cold War, such as white phosphorous, which incinerated 14 people, including several children in one attack; flechettes, small darts that are designed to tumble upon entering human flesh in order to cause maximum damage, strictly in breach of the Geneva Convention; and highly carcinogenic tungsten shrapnel and dime munitions, which contain tungsten in powder form. There is also a whole cocktail of other problematic munitions suspected to have been used.

There are a number of other post-conflict issues in Gaza that need to be addressed. The land is dying. There are toxic deposits from all the munitions that have been dropped. There are serious issues with water—its depletion and its contamination. There is a high instance of nitrates in the soil that is especially dangerous to children. If these issues are not addressed, Gaza may not even be habitable by World Health Organization norms.

Goldstone won't seek Gaza report nullification By STEVEN R. HURST, Apr 6 2011 Associated Press

WASHINGTON – South African jurist Richard Goldstone said Tuesday that he did not plan to seek nullification of his highly critical U.N. report on Israel's 2008-2009 offensive in the Gaza Strip and asserted that claims to the contrary by Israeli Interior Minister Eli Yishai were false.

The 2009 Goldstone report initially concluded that both Israel and Hamas had committed potential war crimes and possible crimes against humanity during three weeks of fighting. The findings that Israeli forces had intentionally fired at Palestinian civilians triggered outrage in Israel and a personal campaign against Goldstone, who is Jewish.

In an interview with The Associated Press, Goldstone said that Yishai had called him on Monday to thank him for an op-ed piece published Friday in The Washington Post in which the judge wrote that new information had come to light that made him rethink his central conclusions.

Goldstone said, however, that he never discussed the report with Yishai in the telephone conversation. Israeli leaders have called for the report to be retracted since it was issued in 2009.

"There was absolutely no discussion about the Goldstone report on the call," the jurist said in a telephone interview from Stanford University in Palo Alto, California.

Goldstone said he thanked Yishai for calling and "stated that my concern was to work for truth, justice and human rights."

Goldstone did confirm that Yishai had invited him to visit Israel and that he had accepted but would be unable to travel to the Jewish state until July.

"I ended the conversation by expressing my love for Israel," Goldstone said, adding that Yishai spoke in Hebrew which was translated for the judge.

In the Post article, Goldstone lauded Israel for conducting dozens of investigations into alleged wrongdoing. In particular, he sighted evidence that a deadly strike that killed more than 20 members of a Palestinian family resulted from faulty intelligence and was not an intentional attack.

Nevertheless, Goldstone said, he did not intend to seek the report's nullification.

"As appears from the Washington Post article, information subsequent to publication of the report did meet with the view that one correction should be made with regard to intentionality on the part of Israel," the judge said. "Further information as a result of domestic investigations could lead to further reconsideration, but as presently advised I have no reason to believe any part of the report needs to be reconsidered at this time."

Yishai told Israel's Army Radio station that he phoned Goldstone to express his appreciation for Goldstone's "courageous" reconsideration of his charges, and to invite him to tour Israel's southern communities that have sustained years of Palestinian rocket fire.

Yishai said Goldstone "as a Jew understands well the story of the Jewish people's suffering ... and it is very important for him to come and see this."

The minister added that Goldstone promised him he would take additional steps to retract his U.N. report.

Also speaking on Army Radio, Danny Gillerman, a former Israeli ambassador to the U.N. who also participated in the phone call, quoted Goldstone as saying he was ready to take steps to change the status of the report, but first wanted to "wait for the dust to settle" following his op-ed article in the Post.

The Geneva-based Human Rights Council has said it will continue to treat the report as a legitimate working document. Spokesman Cedric Sapey told the AP on Monday that Goldstone would have to submit a formal request for the report to be withdrawn.

Last month, a majority of the council's 47 members voted to pass the report up to the General Assembly, recommending the powerful U.N. Security Council be asked to submit it to prosecutors at the International Criminal Court.

Such a move is unlikely to pass the Security Council, where Israel's strongest ally, the United States, has veto power. But the mere suggestion of bringing war crimes charges has infuriated Israel.

In Washington, State Department spokesman Mark Toner had welcomed Goldstone's article that said he subsequently determined Israel had not intentionally attacked civilians.

"We've made clear from when the Goldstone Report was initially presented and maintained ever since that we didn't see any evidence that the Israeli government had intentionally targeted civilians or otherwise engaged in any war crimes; and now that we see that Justice Goldstone has reached the same conclusion," Toner said Monday.

"I can say that we remain concerned and we'll continue working to an end to the what we believe is an anti-Israel bias in the Human Rights Council," Toner said.

Israel attacked the Gaza Strip in December 2008 in response to years of persistent rocket fire from militants in Gaza at southern Israel.

Some 1,400 Palestinians, including hundreds of civilians, and 13 Israelis were killed during the campaign.

Israel has blamed Hamas for the heavy civilian toll, saying the militant group staged attacks from heavily populated residential areas, as well as mosques and schools.

Associated Press writer Daniel Estrin in Jerusalem contributed to this report.

Goldstone, Yishai in spat over whether judge will take new Cast Lead view to UN, By Barak Ravid, Haaretz, April 7, 2011

FM source says Israel will find it hard to get Goldstone to approach the UN regarding its stance on Cast Lead, following Yishai's failing to immediately correct an inaccurate claim he made about the judge.

A diplomatic drama unfolded late Tuesday night over a conversation between Richard Goldstone and Interior Minister Eli Yishai following the appearance of the judge's op-ed piece in which he changed his stance on Israel's Gaza offensive two years ago.

Goldstone headed the UN Human Rights Council commission on Israel's conduct in the offensive, known as Operation Cast Lead. In an article in the Washington Post over the weekend, Goldstone retracted allegations by the commission that Israel had deliberately targeted civilians.

Since the essay's appearance, however, Goldstone has taken issue with Yishai's claim that the judge was ready to work to have the UN report withdrawn. He has demanded a public correction from Yishai. After a response from Yishai was not immediately forthcoming, Goldstone issued another statement opposing the rescission of his commission's report.

Senior Israeli officials said the dispute between the two erupted Tuesday afternoon when Goldstone read an English translation of an interview Yishai gave to Army Radio earlier that day. The minister said Goldstone had promised him to work to have the commission's report rescinded.

Goldstone then contacted Israeli diplomats demanding a correction from the interior minister. The judge said Yishai's English was not good enough to understand what Goldstone had said when the two discussed the issue. He said the minister was trying to give their conversation an inappropriate media spin.

Despite Foreign Ministry efforts to issue a correction, Yishai delayed a response several hours and ultimately released a short statement correcting the record after midnight.

Around 1:30 A.M., Goldstone, who was in California, was informed of Yishai's statement, but he had already gone to the media denying Yishai's earlier remarks and saying that he had never discussed the report in his conversation with Yishai. A Foreign Ministry source said the spat with Yishai will make it much harder for Israel to get Goldstone to approach the United Nations regarding its stance on Cast Lead.

Also speaking on Army Radio, Dan Gillerman, a former Israeli ambassador to the United Nations who also took part in the phone call between Goldstone and Yishai, quoted Goldstone as saying he was ready to take steps to change the status of his commission's report. But first he wanted to wait for the dust to settle following his op-ed in The Washington Post.

Yishai spokesman Roi Lachmanovitch said yesterday that the minister didn't speak with the required clarity in his radio interview. He said Yishai had told Goldstone that if he had toured southern Israel and had seen the suffering there, his commission's report would not have been written.

Goldstone said he thanked Yishai for calling and said his goal was to work for truth, justice and human rights. The judge confirmed that Yishai had invited him to visit Israel and that he had accepted but would be unable to travel to the country until July.

"I ended the conversation by expressing my love for Israel," Goldstone said, adding that Yishai spoke in Hebrew, which was translated for the judge.

Parte seconda: Alcuni commenti significativi

Dr. Goldstone and Mr. Hide (with an "i") by Omar Barghouti, email April 3, 2011

Goldstone has always been a Zionist with deep emotional ties to Israel and, consequently, a very problematic tendency to let it off the hook on some of the most serious evidence of war crimes during its attack on Gaza 2008-2009. I've personally always alluded to his bias in my talks, ever since the report was published, albeit in a diplomatic and nuanced way.

Of all the biased procedures followed and conclusions reached in the Report, I shall cite just one that should make any moral person's blood boil (page 13):

"37. ...The Mission acknowledges the significant efforts made by Israel to issue warnings through telephone calls, leaflets and radio broadcasts and accepts that in some cases, particularly when the warnings were sufficiently specific, they encouraged residents to leave an area and get out of harms way. However, the Mission also notes factors that significantly undermined the effectiveness of the warnings issued. These include the lack of specificity and thus credibility of many pre-recorded phone messages and leaflets. The credibility of instructions to move to city centres for safety was also diminished by the fact that the city centres themselves had been the subject of intense attacks during the air phase of the military operations. The Mission also examined the practice of dropping lighter explosives on roofs (so-called "roof knocking"). It concludes that this technique is not effective as a warning and constitutes a form of attack against the civilians inhabiting the building. Finally, the Mission stresses that the fact that a warning was issued does not relieve a commander and his subordinates of taking all other feasible measures to distinguish between civilians and combatants."

Imagine if such "early warning" techniques of "roof knocking" were to be used against Israeli civilian buildings to "encourage" residents to leave for a safer place before bombing the building! Would Goldstone have described that as "not effective" or merely a "form of attack against the civilians inhabiting the building"?! Given the fact that the Report itself acknowledges that civilians had NO REFUGE to escape to and that willful killings were actually committed by Israeli forces against many Palestinian civilians whose buildings were bombed over their heads because of their failure to heed the Israeli army's humane "roof knocking," is this the most accurate and legally precise description of this crime that such a luminous judge can issue?

By now, and under sustained, vicious and inhumane pressure by Israel and its lobby groups in South Africa, the US and elsewhere, Goldstone's ideological commitment to Israel and Zionism has won over his relatively professional commitment, making him lose any veneer of respectability or credibility. His argument in the Washington Post op-ed below takes the Israeli investigation's claims as truths, more or less, ignoring the conclusion that he and his colleagues who produced the Report have reached regarding Israel's justice system. Referring to "structural flaws" in the so-called Israeli justice system, the Goldstone report concluded that Israel cannot be trusted to administer justice according to international standards [Goldstone Report, paragraph 1756] Here's the exact clause:

1756. After reviewing Israel's system of investigation and prosecution of serious violations of human rights and humanitarian law, in particular of suspected war crimes and crimes against humanity, the Mission found major structural flaws that in its view make the system inconsistent with international standards. With military "operational debriefings" at the core of the system, there is the absence of any effective and impartial investigation mechanism and victims of such alleged violations are deprived of any effective or prompt remedy. Furthermore, such investigations being internal to the Israeli military authority, do not comply with international standards of independence and impartiality. The Mission

believes that the few investigations conducted by the Israeli authorities on alleged serious violations of international human rights and humanitarian law and, in particular, alleged war crimes, in the context of the military operations in Gaza between 27 December 2008 and 18 January 2009, are affected by the defects in the system, have been unduly delayed despite the gravity of the allegations, and, therefore, lack the required credibility and conformity with international standards. The Mission is concerned that investigations of relatively less serious violations that the GOI claims to be investigating have also been unduly protracted.

http://www2.ohchr.org/english/bodies/hrcouncil/specialsession/9/docs/UNFFMGC_Report.pdf

Has any of that changed or only its author's commitment to the truth?

To his credit, from the very beginning, Goldstone was reluctant to take this UN job, arguing that the issues involved in this investigation were "deeply charged and politically loaded." Indeed! Someone should have heeded his advice!

Goldstone was from the start the wrong choice for leading this investigation, given his political and ideological allegiance to Israel. Imagine, for instance, if the UN were to select an overt supporter of Iran -- who also happens to be a Shiite Muslim -- to head a UN investigation of allegations of Iranian violations of international law in crushing demonstrations last year!

Furthermore, the Goldstone report added little new evidence to what had already been very well documented by Amnesty International, Human Rights Watch, UN officials on the ground, leading Palestinian human rights organizations and experienced journalists. As UN Special Rapporteur and leading international law expert Prof. Richard Falk writes:

"Perhaps, most damning of all the material available before the Goldstone report was the publication of a document entitled 'Breaking the Silence,' containing commentaries by 30 members of the Israeli army who had taken part in Operation Cast Lead (the Israeli official name for the Gaza war). These soldiers spoke movingly about the loose rules of engagement issued by their commanders that help explain why so little care was taken to avoid civilian casualties. The sense emerges from the testimony of these Israeli soldiers who were in no sense critical of Israel or even of the Gaza war as such, that Israeli policy emerged out of a combination of efforts 'to teach the people of Gaza a lesson for their support of Hamas' and to keep Israeli military casualties as close to zero as possible even if meant massive death and destruction for innocent Palestinians."

<http://electronicintifada.net/v2/article10788.shtml>

Despite welcoming the report and praising its many positives and its authors' uprightness at the time of its issuance, Falk accurately describes Goldstone as "deeply sympathetic to Israel" and the Report as giving Israel "the benefit of the doubt" in key areas. He presents in the article cited above devastating evidence of Goldstone's political bias:

"Arguably, [the Report] was more sensitive to Israel's contentions that Hamas was guilty of war crimes by firing rockets into its territory than earlier reports had been. And in many ways the Goldstone report endorses the misleading main line of the Israeli narrative by assuming that Israel was acting in self-defense against a terrorist adversary. The report does describe the success of the ceasefire with Hamas that had cut violence in southern Israel to very low levels, and attributes its disruption to Israel's attack on 4 November 2008, but nowhere does it make the inference that would seem to follow, that the Israeli attacks were an instance of the international crime of aggression. Instead, the report focuses its criticism on Israel's excessive and indiscriminate uses of force. ...

... the report takes for granted the dubious proposition that Israel was entitled to act against Gaza in self-defense, thereby excluding inquiry into whether crimes against the peace in the form of aggression had taken place by the launching of the attack. In this respect, although the report takes notice of the temporary ceasefire that had cut the rocket fire directed at Israel practically to zero in the months preceding the attacks, it seems to avoid drawing any legal conclusions as to the bearing of this context in which the Gaza war was initiated. The report also ignores Hamas' repeated efforts to extend the ceasefire indefinitely provided Israel lifted its unlawful blockade of Gaza. Israel disregarded this seemingly available diplomatic alternative to war to achieve security on its borders. Recourse to war, even if the facts were to justify self-defense, is according to international law, a last resort. By ignoring Israel's initiation of a one-sided war the Goldstone report implicitly accepts the dubious central premise of Operation Cast Lead, and avoids making a finding of aggression.

Also disappointing was the failure of the report to comment upon the Israeli denial of a refugee option to the civilian population trapped in the tiny, crowded combat zone that constitutes the Gaza Strip. Israel closed all crossings during the period of the Gaza war, allowing only Gaza residents with foreign passports to leave. It is rare in modern warfare that civilians are not given the option to become refugees. Although there is no specific provision of the laws of war requiring a state at war to allow civilians to leave the combat zone, it seems like an elementary humanitarian requirement, and should at least have been mentioned either as part of customary international law or as a gap in the law that should be filled. The importance of this issue is reinforced by many accounts of the widespread post-traumatic stress experienced by the civilians in Gaza, especially children, who comprise 53 percent of the population. One might also notice that the report accords considerable attention to the one Israeli soldier held prisoner by Hamas in Gaza, recommending his release on humanitarian grounds, while making only a very general recommendation that Israel release some of the thousands of Palestinians being held under conditions of harsh detention, suggesting that children especially should be released."

One can only conclude that the UN made a mistake by appointing Goldstone to lead this investigation, given his obvious and explicit predispositions and biases. It should fix it now, especially after this damaging, obviously political reversal, by commissioning a new, neutral judge or group of international law experts to investigate Goldstone's pathetically weak attempt here to exonerate Israel despite the mass of evidence compiled condemning it.

Dr. Goldstone has turned into Mr. Hide, shamelessly attempting to retrospectively conceal and whitewash Israel's war crimes, sacrificing any judicial or moral integrity he may have once had, all to appease Zionist groups that strove to excommunicate him, more or less. The blood of hundreds of Palestinians killed in Gaza, including hundreds of children, during the Israeli massacre is on Goldstone's hands now, not just Israel's. The Goldstone Report, as flawed and biased towards Israel as it is, will not go down to the dustbin of history; the credibility of and respect for its main author may, though.

Omar Barghouti

Goldstone's shameful U-turn by Ilan Pappé, The Electronic Intifada, 4 April 2011

"If I had known then what I know now, the Goldstone report would have been a different document." Thus opens Judge Richard Goldstone's much-discussed op-ed in The Washington Post. I have a strong feeling that the editor might have tampered with the text and that the original sentence ought to have read something like: "If I had known then that the report would turn me into a self-hating Jew in the eyes of my beloved Israel and my own Jewish community in South Africa, the Goldstone report would never have been written at all." And if that wasn't the original sentence, it is certainly the subtext of Goldstone's article.

This shameful U-turn did not happen this week. It comes after more than a year and a half of a sustained campaign of intimidation and character assassination against the judge, a campaign whose like in the past destroyed mighty people such as US Senator William Fulbright who was shot down politically for his brave attempt to disclose AIPAC's illegal dealings with the State of Israel.

Already In October 2009, Goldstone told CNN, "I've got a great love for Israel" and "I've worked for many Israeli causes and continue to do so" (Video: "Fareed Zakaria GPS," 4 October 2009).

Given the fact that at the time he made this declaration of love he did not have any new evidence, as he claims now, one may wonder how could this love could not be at least weakened by what he discovered when writing, along with other members of the UN commission, his original report.

But worse was to come and exactly a year ago, in April 2010, the campaign against him reached new heights, or rather, lows. It was led by the chairman of the South African Zionist Federation, Avrom Krengel, who tried to prevent Goldstone from participating in his grandson's bar mitzvah in Johannesburg since "Goldstone caused irreparable damage to the Jewish people as a whole."

The South African Zionist Federation threatened to picket outside the synagogue during the ceremony. Worse was the interference of South Africa's Chief Rabbi, Warren Goldstein, who chastised Goldstone for "doing greater damage to the State of Israel." Last February, Goldstone said that " Hamas perpetrated war crimes, but Israel did not," in an interview that was not broadcast, according to a 3 April report the website of Israel's Channel 2. It was not enough: the Israelis demanded much more.

Readers might ask "so what?" and "why could Goldstone not withstand the heat?" Good questions, but alas the Zionization of Jewish communities and the false identification of Jewishness with Zionism is still a powerful disincentive that prevents liberal Jews from boldly facing Israel and its crimes.

Every now and again many liberal Jews seem to liberate themselves and allow their conscience, rather than their fear, to lead them. However, many seem unable stick to their more universalist inclinations for too long where Israel is concerned. The risk of being defined as a "self-hating Jew" with all the ramifications of such an accusation is a real and frightening prospect for them. You have to be in this position to understand the power of this terror.

Just weeks ago, Israeli military intelligence announced it had created a special unit to monitor, confront, and possibly hunt down, individuals and bodies suspected of "delegitimizing" Israel abroad. In light of this, perhaps quite a few of the faint-hearted felt standing up to Israel was not worth it.

We should have recognized that Goldstone was one of them when he stated that, despite his report, he remains a Zionist. This adjective, "Zionist," is far more meaningful and charged than is usually assumed. You cannot claim to be one if you oppose the ideology of the apartheid State of Israel. You can remain one if you just rebuke the state for a certain criminal policy and fail to see the connection between the ideology and that policy. "I am a Zionist" is a declaration of loyalty to a frame of mind that cannot accept the 2009 Goldstone Report. You can either be a Zionist or blame Israel for war crimes and crimes against humanity -- if you do both, you will crack sooner rather than later.

That this mea culpa has nothing to do with new facts is clear when one examines the "evidence" brought by Goldstone to explain his retraction. To be honest, one should say that one did not have to be the world expert on international law to know that Israel committed war crimes in Gaza in 2009. The reports of bodies such as Breaking the Silence and the UN representatives on the ground attested to it, before and after the Goldstone report. It was also not the only evidence.

The pictures and images we saw on our screens and those we saw on the ground told only one story of a criminal policy intending to kill, wound and maim as a collective punishment. "The Palestinians are going to bring upon themselves a Holocaust," promised Matan Vilnai, Israel's deputy minister of defense to the people of Gaza on 29 February 2008.

There is only one new piece of evidence Goldstone brings and this is an internal Israeli army investigation that explains that one of the cases suspected as a war crime was due to a mistake by the Israeli army that is still being investigated. This must be a winning card: a claim by the Israeli army that massive killings by Palestinians were a "mistake."

Ever since the creation of the State of Israel, the tens of thousands of Palestinians killed by Israel were either terrorists or killed by "mistake." So 29 out of 1,400 deaths were killed by an unfortunate mistake? Only ideological commitment could base a revision of the report on an internal inquiry of the Israeli army focusing only on one of dozens of instances of unlawful killing and massacring. So it cannot be new evidence that caused Goldstone to write this article. Rather, it is his wish to return to the Zionist comfort zone that propelled this bizarre and faulty article.

This is also clear from the way he escalates his language against Hamas in the article and de-escalates his words toward Israel. And he hopes that this would absolve him of Israel's righteous fury. But he is wrong, very wrong. Only a few hours passed from the publication of the article until Israeli Defense Minister Ehud Barak, Prime Minister Benjamin Netanyahu and of course the Nobel Peace Prize Laureate President Shimon Peres commissioned Goldstone with a new role in life: he is expected to move from one campus to the other and hop from one public venue to the next in the service of a new and pious Israel. He may choose not to do it; but then again he might not be allowed to attend his grandson's bar mitzvah as a retaliation.

Goldstone and his colleagues wrote a very detailed report, but they were quite reserved in their conclusions. The picture unfolding from Israeli and Palestinian human rights organizations was far more horrendous and was described less in the clinical and legal language that quite often fails to convey the magnitude of the horror. It was first western public opinion that understood better than Goldstone the implications of his report. Israel's international legitimacy has suffered an unprecedented blow. He was genuinely shocked to learn that this was the result.

We have been there before. In the late 1980s, Israeli historian Benny Morris wrote a similar, sterile, account of the 1948 ethnic cleansing of Palestine. Palestinian academics

such as Edward Said, Nur Masalha and Walid Khalidi were the ones who pointed to the significant implications for Israel's identity and self-image, and nature of the archival material he unearthed.

Morris too cowered under pressure and asked to be re-admitted to the tribe. He went very far with his mea culpa and re-emerged as an extreme anti-Arab and anti-Muslim racist: suggesting putting the Arabs in cages and promoting the idea of another ethnic cleansing. Goldstone can go in that direction too; or at least this is what the Israelis expect him to do now.

Professionally, both Morris and Goldstone tried to retreat to a position that claimed, as Goldstone does in The Washington Post article, that Israel can only be judged by its intentions not the consequences of its deeds. Therefore only the Israeli army, in both cases, can be a reliable source for knowing what these intentions were. Very few decent and intelligent people in the world would accept such a bizarre analysis and explanation.

Goldstone has not entered as yet the lunatic fringe of ultra-Zionism as Morris did. But if he is not careful the future promises to be a pleasant journey with the likes of Morris, Alan Dershowitz (who already said that Goldstone is a "repentant Jew") between annual meetings of the AIPAC rottweilers and the wacky conventions of the Christian Zionists. He would soon find out that once you cower in the face of Zionism -- you are expected to go all the way or be at the very same spot you thought you had successfully left behind you.

Winning Zionist love in the short-term is far less important than losing the world's respect in the long-run. Palestine should choose its friends with care: they cannot be faint-hearted nor can they claim to be Zionists as well as champions of peace, justice and human rights in Palestine.

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La vergognosa inversione ad U di Goldstone di Ilan Pappé*, The Electronic Intifada

“Se avessi saputo allora quello che so adesso, il rapporto Goldstone sarebbe stato un documento diverso”. Così si apre il tanto discusso articolo del giudice Richard Goldstone in The Washington Post. Ho la netta sensazione che l’editore potrebbe avere manomesso il testo e che nella frase originale si sarebbe dovuto leggere qualcosa tipo: “Se avessi saputo allora che la relazione mi avrebbe trasformato in un Ebreo che odia se stesso agli occhi della mia amata Israele e della mia comunità ebraica in Sud Africa, il rapporto Goldstone non sarebbe mai stato scritto”. E se questa non era la frase originale, è certamente il sottotesto dell’ articolo di Goldstone.

Questa vergognosa inversione a U non è avvenuta questa settimana. Essa arriva dopo più di un anno e mezzo di un’intensa campagna di intimidazioni e di diffamazioni contro il giudice, una campagna come quella che in passato ha distrutto gente potente come il senatore statunitense William Fulbright, che è stato distrutto politicamente per il suo coraggioso tentativo di divulgare i rapporti illegali dell’AIPAC con lo Stato di Israele.

Già nell’ottobre 2009, Goldstone ha detto alla CNN, “Ho un grande amore per Israele” e “Ho lavorato per molte cause israeliane e continuerò a farlo” (Video: “Fareed Zakaria GPS”, 4 ottobre 2009).

Tenuto conto del fatto che al momento in cui ha fatto questa dichiarazione d’amore non aveva alcuna nuova prova, come egli sostiene ora, viene da chiedersi come questo amore non sia stato almeno indebolito da ciò che ha scoperto quando scriveva, insieme ad altri membri della Commissione delle Nazioni Unite, la sua relazione iniziale.

Ma il peggio doveva venire ed esattamente un anno fa, nell’aprile 2010, quando la campagna contro di lui ha raggiunto nuovi picchi, o meglio, bassezze. È stata condotta dal presidente della Federazione Sionista sudafricana, Avrom Krengel, che ha cercato di impedire a Goldstone di partecipare al bar mitzvah del nipote a Johannesburg dal momento che “Goldstone ha causato un danno irreparabile all’intero popolo ebraico”.

La Federazione Sionista sudafricana ha minacciato il picchetto al di fuori della sinagoga durante la cerimonia. Peggior è stata l’interferenza del Rabbino Capo del Sud Africa, Warren Goldstein, che ha castigato Goldstone per “aver fatto il maggior danno per lo Stato di Israele”. Lo scorso febbraio, Goldstone ha detto che “ Hamas ha perpetrato crimini di guerra, ma non Israele”, in un’intervista che non è stata trasmessa, secondo un rapporto del 3 aprile del sito web del canale 2 di Israele. Non è stato sufficiente: gli israeliani hanno chiesto molto di più.

I lettori si potrebbero chiedere “e quindi?” e “perché Goldstone non poteva sopportare il fervore?” Buone domande, ma purtroppo la Zionization delle comunità ebraiche e la falsa identificazione di ebraicità con il sionismo è ancora un potente disincentivo che impedisce agli ebrei liberali di affrontare con coraggio Israele ed i suoi crimini.

Ogni tanto molti ebrei liberali sembrano liberarsi e permettere alla loro coscienza, piuttosto che alla loro paura, di trascinarli. Tuttavia, molti sembrano incapaci di rimanere ancorati alle loro inclinazioni più universaliste per lungo tempo quando è coinvolta Israele. Il rischio di essere definito come un “Ebreo che odia se stesso” con tutte le implicazioni di una tale accusa è una prospettiva reale e spaventosa per loro. Bisogna trovarsi in tale posizione per comprendere la potenza di questo terrore.

Solo poche settimane fa, l’intelligence militare israeliana ha annunciato di aver creato una

speciale unità per monitorare, confrontare ed eventualmente dare la caccia, a persone e entità sospettate di "delegittimare" Israele all'estero. Alla luce di questo, magari un bel po' di gente debole di cuore ha ritenuto che non valeva la pena affrontare Israele.

Avremmo dovuto riconoscere che Goldstone era uno di loro quando ha dichiarato che, nonostante la sua relazione, egli rimane un sionista. Questo aggettivo, "sionista", è molto più pieno di significato e carico di quanto è assunto di solito. Non si può pretendere di essere sionista se ci si oppone all'ideologia dello Stato dell'apartheid di Israele. [...]. "Sono un sionista" è una dichiarazione di lealtà verso uno stato d'animo che non può accettare il Rapporto Goldstone 2009. Si può essere un sionista o incolpare Israele per crimini di guerra e crimini contro l'umanità - a fare entrambe le cose, si crepa prima piuttosto che dopo.

Che questo mea culpa non ha nulla a che fare con fatti nuovi è chiaro quando si esamina la "prova" portata da Goldstone per spiegare la sua ritrattazione. A essere onesti, si dovrebbe dire che non è necessario essere il massimo esperto mondiale in materia di diritto internazionale per sapere che Israele ha commesso crimini di guerra a Gaza nel 2009. I rapporti di organismi come Breaking the Silence e dei rappresentanti delle Nazioni Unite sul terreno hanno attestato questo, prima e dopo il rapporto Goldstone. Non era l'unica prova.

Le foto e le immagini che abbiamo visto sui nostri schermi e quelli che abbiamo visto sul terreno raccontavano solo una storia di una politica criminale intenzionata ad uccidere, ferire e mutilare come punizione collettiva. "I palestinesi stanno per portare su di sé un Olocausto", ha promesso Matan Vilnai, vice ministro della difesa israeliano, alla popolazione di Gaza il 29 febbraio 2008.

C'è solo un nuovo elemento di prova che Goldstone porta ed è una indagine interna all'esercito israeliano che spiega che uno dei casi sospetti come crimine di guerra è stato dovuto ad un errore da parte dell'esercito israeliano che è ancora oggetto di indagine. Questa deve essere una carta vincente: una rivendicazione da parte dell'esercito israeliano che le uccisioni di massa di palestinesi sono state un "errore".

Sin dalla creazione dello Stato d'Israele, le decine di migliaia di palestinesi uccisi da Israele erano terroristi o uccisi per "errore". Quindi, 29 su 1.400 morti sono stati uccisi da un errore sfortunato? Solo l'impegno ideologico potrebbe basare una revisione della relazione su un'inchiesta interna dell'esercito israeliano e concentrarsi solo su una delle decine di casi di uccisioni e massacri illegali. Quindi non può essere una nuova prova che ha portato Goldstone a scrivere questo articolo. Piuttosto, è il desiderio di tornare alla zona di comfort sionista che ha sollecitato questo articolo bizzarro e difettoso.

Questo è chiaro anche dal modo in cui, in questo articolo, si intensifica il suo lessico contro Hamas e nella de-escalation delle sue parole nei confronti di Israele. Egli spera con questo di essere assolto dalla giusta furia di Israele. Ma è sbagliato, molto sbagliato. Solo dopo poche ore dalla pubblicazione dell'articolo perché il ministro della Difesa israeliano Ehud Barak, il primo ministro Benjamin Netanyahu e, naturalmente, il Premio Nobel della Pace il presidente Shimon Peres hanno affidato a Goldstone un nuovo ruolo nella vita: ci si aspetta che egli si muova da un campus ad all'altro e salti da una sede pubblica alla successiva al servizio di un nuovo e pio Israele. Egli può scegliere di non farlo, ma poi, come ritorsione, potrebbe non essergli consentito di partecipare al bar mitzvah del nipote.

Goldstone e suoi colleghi hanno scritto un rapporto molto dettagliato, ma erano piuttosto dimessi nelle loro conclusioni. [...]. Inizialmente è stata l'opinione pubblica occidentale che ha capito le implicazioni della relazione Goldstone. La legittimità internazionale di

Israele ha subito un colpo senza precedenti. Goldstone è rimasto scioccato di apprendere che il risultato della sua relazione è stato questo.

È una storia già vista. Nel tardo 1980, lo storico israeliano Benny Morris ha scritto un analogo, sterile resoconto della pulizia etnica della Palestina del 1948. Accademici palestinesi come Edward Said, Nur Masalha e Walid Khalidi hanno sottolineato le implicazioni significative per l'identità e l'immagine di Israele e la natura del materiale d'archivio che Morris ha portato alla luce.

Anche Morris era stato messo sotto pressione e ha chiesto di essere riammesso alla tribù. È andato molto oltre con il suo mea culpa ed è riemerso come un estremista anti-arabo e un razzista anti-musulmano, suggerendo di rinchiudere gli arabi in gabbie e promuovendo l'idea di un'altra pulizia etnica. Anche Goldstone può andare in quella direzione, o almeno questo è ciò che gli israeliani si aspettano da lui ora.

Professionalmente, sia Morris sia Goldstone hanno cercato di retrocedere a una posizione che sosteneva, come fa Goldstone nell'articolo del The Washington Post, che Israele può essere giudicato solo per le sue intenzioni non per le conseguenze delle sue azioni. Pertanto, solo l'esercito israeliano, in entrambi i casi, può essere una fonte affidabile per sapere quali fossero queste intenzioni. Pochissime persone al mondo, intelligenti e dignitose, accetterebbero una analisi così bizzarra e questa spiegazione.

Goldstone non è ancora entrato nella frangia estremista dell'ultra-sionismo come ha fatto Morris. Ma se non fa attenzione il futuro promette un piacevole viaggio con artisti del calibro di Morris, Alan Dershowitz (che ha già detto che Goldstone è un "Ebreo pentito") tra le riunioni annuali del Rottweiler AIPAC e le convenzioni wacky dei sionisti cristiani. [...].

Conquistare l'amore sionista nel breve periodo è molto meno importante che perdere il rispetto del mondo nel lungo periodo. La Palestina deve scegliere i suoi amici con attenzione: essi non possono essere deboli di cuore né possono pretendere di essere sionisti e anche campioni della pace, della giustizia e dei diritti umani in Palestina.

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(Fonte: palestinalibera.org)

Goldstone's Hemorrhoidectomy by Hatim Kanaaneh Monday, April 4, 2011

Goldstone's Hemorrhoidectomy

The call issued by angry human rights diehards, incensed by judge Richard Goldstone's rebuttal of his own former ruling, solidified in its original undiluted form by his well-paid UN position, confirming Israel's criminality in its attack on Gaza civilians, to dismiss him as a victim of senility makes my blood boil for reasons beyond my age-related infirmity of intentionality, the said judge being my junior by over five hundred days and much more capable of grammatical contortions in hiding what he wants to say so that you are at a loss as to where the subject of his sentence ends or senility sets in. Got that? And I am not a lawyer, mind you. If you didn't get my drift, let me delve a bit deeper. Here is what the man says in a nutshell:

"Although the Israeli evidence that has emerged since publication of our report doesn't negate the tragic loss of civilian life, I regret that our fact-finding mission did not have such evidence explaining the circumstances in which we said civilians in Gaza were targeted, because it probably would have influenced our findings about intentionality and war crimes."

Let us not forget that the man had proven himself beyond a doubt as a veritable artist at adapting to constricting circumstances, a first-rate compromiser and double-dealer if viewed from the vintage point of his former employers. Imagine serving for fourteen years at the top of the Apartheid court system and coming out smelling like a rose. I wonder if anyone has tallied up the list of all the blacks in South Africa whom judge Goldstone sent to jail while he deliberately "undermined apartheid from within the system by tempering the worst effects of the country's racial laws," as Wikipedia would have us believe. I actually appreciate the man's slaving away at making a dent in the system while not abandoning his basic commitment to his own self-interest including, I presume, promotions and a better salary. In my delusional younger years I, for example, tried to work to improve the health of the Palestinian minority in Israel from within the Zionist state system while collecting a good salary and heading a good-size office. And I achieved some miniscule positive results. I appreciate the logical and moral acrobatics that such professional compromising exercises require. It is confusing and I can see why the good judge can't quite come out and say what is on his cluttered mind at this late stage.

If I have lost you there for a moment, let me backtrack. The man never said he was anything other than Zionist. That does not allow condemnation of Israel under any circumstances. He seeks a moral compromise out of the conundrum: He makes his acceptance of the UN assignment to head the international committee to look into Israel's possible war crimes in its 2008-9 war against Gaza conditional on investigating Hamas as well and the UN grants him his request. Had he relied on his common horse sense he would have saved himself and us all much time and effort: Hamas never denied targeting what Israel calls its civilian population. So what is there to investigate? Still, we all were impressed by the man's conclusions putting the blame on both sides and implying equivalency between Israel and Hamas. Richard Goldstone must have thought this was enough of an achievement to blunt the expected outrage of fellow Zionists. Seen from Bibi Netanyahu's angle this looks very bad for Israel and for Zionism. Richard was identified as another self-hating Jew and targeted for excommunication by the tribe.

I still live in a rural Palestinian community where the clan dominates social relations. For an individual to be shunned by his or her clan spells the ablation of that person's social and psychological comfort zone. Imagine how much more painful it must be for one to be excommunicated by the entire tribe; your own family threatens to throw you out of your grandson's bar-mitzvah, not to mention random threats of physical harm. Had Richard

been physically eliminated, it would probably have fallen under the rubric of honor killing, not an unknown entity in tribal societies including my own. After all, it has happened in Israel before, and Bibi seemed to have given it an a priori nod at the time. Would Bibi have named a major square in the center of Tel Aviv after the good judge had it happened to Goldstone before he found a way to appease his critics?

Let us not speculate. The fact of the matter is that Richard has wised up in due time and tried to recant. But he has his international name to worry about too. After all, the Palestinian National Authority saw fit to play with the man's report as if it were a set of political playing cards, threatening to use it to trump Israel, then magically hiding it for a while and threatening to pull it out of a hat at the right moment. So Richard sets out to bamboozle all concerned with empty doublespeak. "If I had known then what I know now, the Goldstone Report would have been a different document." Wow! How profound. You could change a comma and, technically, it would be "a different document." Yet the trick has worked wonders: It gave Richard another chance to come down on Hamas as if we all had thought he had fallen in love with them before. And Bibi is ready to accept the prodigal son back in the fold of the family, provided Richard issues a proper and full formal apology. The problem is that there were some other minor characters who had penned their signature to that document and some of them may not have strong tribal connections here.

It behooves the UN, and I hesitate to extend the generalization to the US, for that would render the recommendation impossible to implement, to refrain from putting the fox in charge of the chicken coop: You cannot appoint an avowed Zionist to investigate Israel unless you want to get a quick clearance. Mind you, I am not accusing my junior friend, Richard, with ill intent or anything unsavory, other than being a Zionist. What I am talking about is the standard precaution that we, physicians, are repeatedly admonished during our training to observe: Never treat a member of your immediate family, except in an emergency of course. The rationale is that you don't want to let your emotions cloud your medical judgment. This is doubly so when we are dealing with self-diagnosis and treatment. And yet many physicians disregard such advice and treat their next of kin or even themselves. I recall the story in my medical training days in Boston of a third-year surgical resident at a Harvard-associated top-rate hospital who was fired for going overboard in disregarding the above accepted principle of professional conduct: He was caught operating on himself, lying supine on the operating table and using a series of large mirrors to enable himself to perform his own hemorrhoidectomy.

You shouldn't have, Richard!

Goldstone Flip-flops After Talk With Racist Zionists Sunday April 03, 2011 00:59
by Celine Hagbard <http://www.imemc.org/article/60990>

Richard Goldstone and I attended the same event last week – he as an honored guest, and I as an ordinary audience member. It was a debate on the Goldstone Report at Stanford University between two lawyers who had visited Gaza as part of a National Lawyers' Guild Delegation, and two Zionist academics.

Judge Goldstone During Standford Talk - Image by Saed Bannoura - IMEMC

In the course of the event, Peter Berkowitz and Abraham Bell, the Zionist academics, both put forward arguments based on logical fallacies (red herring, straw man, ad hominem attacks), contradicted themselves on numerous points, and were forced to make retractions of false statements. Although no one was keeping score, having been on my high school debate team, I think it was pretty clear that the Zionists, who argued against the Goldstone Report, lost that debate hands down.

Apparently Richard Goldstone didn't take high school debate, or didn't really care who based their arguments on lucid and verifiable facts, and who merely floated theories and generalizations followed by personal attacks, because it seems he let himself be convinced by Berkowitz and Bell's spurious arguments. Just a few days after that debate, Goldstone published an op-ed in the Washington Post second guessing the conclusions of his own investigation and his commission's report!

In his letter, Goldstone criticizes Hamas for failing to investigate and prosecute war crimes, while lauding Israel for doing so. In doing so, he falls prey to the 'moral equivalence' argument challenged by the debate moderator at last week's event. Are Hamas and Israel morally equivalent? Well, let's see, a democratically-elected Hamas government that had managed to maintain a nearly year-long ceasefire (in 2008) in which cross-border shelling by Palestinian resistance groups dropped to virtually none, while Israeli violations continued. The ceasefire was broken by Israel in December with an extrajudicial assassination of six alleged members of Hamas' armed wing.



On the other side, an Israeli army whose arsenal is the fourth-largest in the world, deciding to launch a massive invasion of a 15-mile wide strip of land that it had already laid siege to for three straight years, thereby weakening the population of 1.4 million and depriving them of their basic human needs. In that invasion, Israeli forces killed 1400 Palestinians, an estimated 80% of whom were civilians (although resistance against an invading military force is permissible under the internationally-recognized laws of warfare). And a jaw-dropping FOUR HUNDRED of these victims were children.

As Victor Kattan, one of the National Lawyers Guild lawyers who participated in last week's debate, quietly interjected toward the end of the debate: There has been no justice for the deaths of these 400 children, and Israel has announced no plan to pursue justice for the families of those who lost their children to the Israeli invasion of 2008-9 that Israeli officials smirkingly refer to as "Operation Cast Lead".

Goldstone sat quietly throughout the debate, listening politely, and obviously sucking up all the wild generalizations and racist rhetoric used by Bell and Berkowitz. At one point, Abraham Bell, a former clerk for the Israeli Chief Justice, made the incredibly racist statement that he and Noura Erekat (the lawyer on the other side of the debate table) would never be able to walk down the streets of Gaza City together, because "If the moral police didn't get us, then someone more sinister would". Erekat countered that she had, in fact, walked in Gaza City with American Jewish men like himself without any problem. One audience member commented to me afterward that Bell's statement had been equivalent to saying, "If I were to walk into the streets of Harlem as a white man, they'd surely kill me" - a statement that Americans would recognize as a racist one, that generalizes and stereotypes about black people, and something that would not be acceptable in US culture. But when a similar statement is made about Palestinians in a supposedly 'academic' debate, it is allowed to pass.

Bell also made the absurd claim that he and Erekat would be able to walk down the streets of Tel Aviv without any problem. Why is this absurd? Because Erekat, being of Palestinian origin, would not be allowed into Tel Aviv due to Israeli policies.

But despite the absurdities and fallacies laid out by the two Zionist academics in the debate, it seems that Goldstone was convinced, because less than a week later here he is in the Washington Post spilling his guts about his internal conflicts and personal allegiance to Israel, and cheering Israel for investigating one of the murders of children in Gaza. But what about the hundreds of other children killed by invading tanks and raining missiles? What about the 800 adult civilians, whose deaths are every bit as morally despicable as the killing of the children?

Yes, it's true, 5 Israeli civilians were killed by erratic, un-aimed homemade shells fired from Gaza. And 9 Israeli soldiers were killed while invading Gaza - at least three of whom were hit by 'friendly fire'. But how is that morally equivalent to invading another people's land, dropping bombs on crowded civilian areas and shooting unarmed civilians, which is what Israeli forces did in this case? It seems that Richard Goldstone now sees these two sides as morally equivalent - essentially equating colonizer and colonized, victimizer and victim, invading army and besieged civilian population.

How ironic that Richard Goldstone published his letter in the Washington Post on April Fool's Day, as he has proven by it that he has let himself become one.

gaza strip | human rights | opinion/analysis

Israeli airforce drops white phosphorus in Beit Lahia (image from Btselem)



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Goldstone op-ed misrepresented but also misleading By Jerry Haber, April 3 2011|+972blog

It is the unfortunate fate of Judge Richard Goldstone to be condemned and praised for what he doesn't write. The responses to his op-ed in Washington Post from the Israel advocates are laughable. Even a superficial reading of the op-ed shows that he has not retracted a single comma in the Goldstone Report, nor does he express any regret for having written the report the way it was written. He simply says that had he known then what he knows now, the report would have been different.

In fact, he has been saying for over a year that had Israel cooperated with the Mission instead of boycotting it, the report would have looked different. In the op-ed he gives good marks to some of the IDF investigations, though he does not say that he finds the investigation entirely adequate (more on that below.) Some cases of killing civilians which looked prima facie intentional have now been explained to his satisfaction. Yet he refers approvingly to the UN final report which does not find that investigation adequate. He says that the IDF has investigated better than has Hamas, and gives good marks to the IDF and PA (but failing marks to Hamas) for implementing new policies. Although he doesn't say it – perhaps he is modest — the IDF investigations would probably not have occurred without the Goldstone Report.

For a careful reading of the WaPo op-ed, see this piece of Yaniv Reich here. I thank Yaniv for saving me the time, and I thank Hashem for commanding us Jews to observe the Sabbath. Had I read Judge Goldstone's op-ed when it was posted, I would have spent hours writing on it.

Reich refers to the tone and the timing of the WaPo op-ed. The tone of the original report seemed to me to be an angry one. Israel's decision not to cooperate with the Goldstone mission cost it in two ways: first, its side of the story was not heard, and, second, its refusal to deal civilly with the mission had an impact on the tone of the final report. It certainly had an impact on the tone of some of the interviews that Judge Goldstone gave. The nasty blowback that Judge Goldstone received also may have affected some of the

tone, not of the report, but of some of his statements; he is human.

But in speaking before various audiences the tone has always been a bit different. There was criticism of Israel, but there was always the emphasis that the findings were not judiciary and that the report called for investigations. Judge Goldstone constantly affirmed his fundamental support of Israel, and he seems to have found it difficult to understand why the positive aspects of the report (e.g., the criticism of Hamas) were being neglected

What is puzzling, then, is why Judge Goldstone has decided to write an op-ed for the Washington Post now that may give the impression that Israel has discharged its obligations with its ongoing, private, IDF investigations. As Reich puts it:

Goldstone's latest op-ed...does not challenge a single concrete finding in the entire report, and he has not conceded absolutely anything to his critics in that way. In fact, his findings under severe constraints have held up remarkably well with time. But the tone and timing of this current piece suggest that somehow the report should be "reconsidered", that it was somehow wrong. Moreover, his comments seem to intentionally mislead about the content of the UN independent committee's findings on due process in Israel. This is nothing more than a bone to Israel's apologists, which is deeply misleading for all the reasons discussed here.

Reich concludes:

I am afraid this is a sad, integrity-damaging turn for a man who had singlehandedly done so much to protect people from war crimes in Israel, Palestine, and elsewhere.

I cannot agree with Reich here. I would agree with him had Judge Goldstone explicitly back-tracked. I would agree with him had he said that the IDF has discharged its duty. I would agree had Reich given convincing proof of "intentionality," i.e. that Goldstone intentionally mislead his readers.

But I do think that the op-ed raises questions that could easily be laid to rest were Judge Goldstone to make explicit his views on whether Israel has discharged its obligation. In the original op-ed, he wrote.

Indeed, our main recommendation was for each party to investigate, transparently and in good faith, the incidents referred to in our report. McGowan Davis has found that Israel has done this to a significant degree.

Is a "significant degree" a "sufficient degree"? According to McGowan Davis, no. According to Judge Goldstone in the Bill Moyers interview, an internal IDF investigation would not be sufficient:

BILL MOYERS: But just this week, the Israeli defense minister said, we don't want any investigations. He says, "There's no need for a committee of inquiry. The Israeli military knows how to examine itself better than anyone else." And he blocked a meeting this week that was going to discuss whether or not Israel should launch an investigation.

RICHARD GOLDSTONE: Well the question is whether he's going to succeed. You know, Ariel Sharon, when he was defense minister, did exactly the same blocking, unsuccessfully, in respect of Sabra and Shatila, and a very appropriate independent investigation was set up under judges and the then attorney general. And of course, they found Sharon guilty, and forced his dismissal as defense minister. So there's precedent both for the minister blocking it, and for his losing, and I hope that will happen here.

Well, it did not happen here. And it is surprising, and puzzling, that Judge Goldstone did not repeat his call for an independent inquiry in his op-ed. But until he explicitly says that

there is no further need for one, then the statement above should represent his final word.

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Goldstone non può annullare il suo rapporto di Chantal Meloni, Roma 6 aprile 2011*

Le indagini dell'esercito israeliano non possono valere per i crimini di guerra, Goldstone sa che le inchieste devono essere condotte da un organo indipendente, dato il conflitto inerente ad un potere militare che esamina il suo stesso ruolo.

Roma, 06 aprile 2011, Nena News – L'articolo firmato dal giudice Richard Goldstone ed apparso sul Washington Post il 2 aprile scorso sta generando una enorme quantità di commenti, dubbi, critiche e prese di posizione. Una grande confusione si potrebbe dire.

Vi è addirittura chi – come il primo ministro israeliano – si spinge a dire che, alla luce di quanto recentemente dichiarato da Goldstone, l'omonimo rapporto dovrebbe essere cestinato. Che l'Onu dovrebbe ritirare le risoluzioni adottate con tanto di scuse ad Israele per l'onta a cui è stato sottoposto a causa delle dure conclusioni di tale documento.

Per chi non le ricordasse, le conclusioni della Missione nominata dall'ONU e guidata dal giudice Goldstone (tecnicamente una Fact Finding Mission, una sorta di commissione di indagine, quindi non un organo giudiziario), furono nel senso che "ciò che è avvenuto in poco più di tre settimane alla fine 2008, inizio 2009 [a Gaza] è stato un attacco deliberatamente sproporzionato organizzato per punire, umiliare e terrorizzare una popolazione civile, diminuire radicalmente la sua capacità economica sia di lavorare sia di provvedere a se stessa, e di imporle con la forza un senso di sempre crescente dipendenza e vulnerabilità" (si veda il UN Fact-Finding Mission Report).

Per sommi capi, i principali risultati della Missione guidata dal giudice Goldstone erano che:

- a) Il blocco di Gaza è illegale e può integrare un crimine contro l'umanità (il crimine di 'persecution');
- b) Numerosissimi incidenti integranti presunti crimini di guerra furono commessi da parte Israeliana (il Rapporto evidenzia un dettagliato, ma dichiaratamente non esaustivo, campione di 36 incidenti);
- c) Il lancio di razzi da Gaza verso il sud di Israele, in quanto attacco indiscriminato, integra crimini di guerra e possibili crimini contro l'umanità;
- d) Diverse violazioni dei diritti umani e presunti crimini furono commessi da parte palestinese nei confronti di palestinesi nel corso del conflitto interno tra le fazioni politiche rivali.

Quanto alle responsabilità israeliane nel corso dell'attacco contro la Striscia di Gaza (denominato 'Operazione Piombo Fuso'), il Rapporto denunciava la violazione dei fondamentali principi di diritto internazionale dei conflitti armati, quali il principio di necessità, distinzione e proporzionalità, come evidenziato in particolare dall'elevatissimo numero di vittime civili, nonché i numerosi attacchi deliberati e intenzionali contro i civili (quindi non "effetti collaterali"), come le uccisioni di civili in fuga con la bandiera bianca.

Amnesty International, solo per citare una delle numerose fonti indipendenti, denunciò l'uccisione intenzionale di 940 civili tra cui 300 bambini e 115 donne. Tale spaventoso numero di vittime civili farebbe presumere, a parere della Missione, regole di ingaggio e ordini illegittimi, nel senso di aver concesso ai soldati una soglia troppo bassa per il ricorso alla forza letale.

Il Rapporto evidenziava inoltre la distruzione di palazzi ed edifici senza necessità militare, incluse moschee, scuole, ospedali, il Consiglio legislativo palestinese e la prigione. Persino scuole dell'Onu, dove si erano rifugiati migliaia di civili sfollati, furono colpite. La Missione trovava anche evidenza dell'uso improprio del fosforo bianco da parte dell'esercito israeliano e, in generale, riteneva che non fossero state prese le adeguate cautele per proteggere la popolazione civile palestinese prima degli attacchi.

La Missione avanzava raccomandava quindi: (1) di procedere con l'accertamento delle responsabilità; (2) di riconoscere il risarcimento alle vittime; (3) di eliminare il blocco di Gaza e permetterne la ricostruzione. Inoltre

"In vista della gravità delle violazioni di diritto umanitario internazionale e dei diritti umani riportate" si chiedeva la trasmissione del rapporto al Consiglio di Sicurezza dell'Onu ed al Procuratore della Corte Penale Internazionale.

Alla luce delle recenti esternazioni del giudice Goldstone e del dibattito che ne sta seguendo, è necessario dunque chiedersi se qualcosa è cambiato rispetto alla validità del Rapporto della Fact Finding Mission e del suo seguito nelle appropriate sedi internazionali. Prescindendo dalle reali intenzioni di Goldstone, a noi ovviamente imperscrutabili, non si può non rilevare che l'attuale dibattito sui media – tendente a ridimensionare l'importanza del Rapporto in questione – appare decisamente mal-posto e fuori fuoco.

Certo, interesserebbe sapere quali siano le informazioni sulla base delle quali Goldstone afferma sul Washington Post che "se avessi saputo quello che so oggi, il Rapporto Goldstone sarebbe stato un documento diverso". L'articolo tuttavia non dà elementi che sostanzino tale affermazione. Goldstone dichiara che le indagini dell'esercito israeliano dimostrerebbero la validità di singoli incidenti messi in luce dal Rapporto, e la relativa responsabilità individuale di alcuni soldati, ma indicherebbero altresì che "i civili non furono attaccati intenzionalmente come policy".

Stupisce sommamente tale conclusione. Stupisce perchè, come si spiegherà di seguito, le serie denunce di gravissimi crimini sono rimaste assolutamente senza seguito, non solo da parte delle autorità di Gaza (come Goldstone fa giustamente notare), ma anche da parte di quelle israeliane.

Occorre fare un passo indietro e ricordare alcuni passaggi fondamentali che sono seguiti alla presentazione e votazione del Rapporto Goldstone in sede Onu. In particolare, con la Risoluzione 64/10 del 5 Novembre 2009 l'Assemblea Generale dell'ONU ha accolto le conclusioni del Rapporto e ha raccomandato di istituire:

"Indagini che siano indipendenti credibili e in conformità con gli standard internazionali, sulle gravi violazioni del diritto internazionale umanitario e dei diritti umani riportate dalla Fact Finding Mission, al fine di assicurare giustizia".

Tali indagini avrebbero dovuto essere svolte da entrambe le parti (israeliana e palestinese) entro un breve periodo, inizialmente fissato in tre mesi e successivamente esteso di altri cinque mesi (con una successiva risoluzione sempre della Assemblea Generale dell'Onu)

Parallelamente il Consiglio dei Diritti Umani dell'Onu nominava un Comitato di Esperti Indipendenti (presieduto dal Professor Christian Tomuschat, emerito di diritto internazionale presso l'Università Humboldt di Berlino) con il mandato di "monitorare e

valutare ogni procedimento legale a livello domestico sia da parte israeliana che palestinese (...) inclusa la loro indipendenza, effettività, genuinità e la loro conformità con gli standard internazionali”.

Il Rapporto del Comitato di Esperti, presentato a Ginevra il 27 Settembre 2010 al Consiglio dei Diritti Umani, evidenziava gravi limiti del sistema giudiziario israeliano nel condurre le indagini relative all'operazione "Piombo Fuso" a Gaza; allo stesso tempo metteva in luce inazione (da parte delle autorità di Gaza) e parziali insufficienze (da parte delle autorità di Ramallah) del sistema giudiziario palestinese (si veda il Rapporto del UN Committee of Independent Experts).

In merito alle indagini israeliane il Rapporto dava atto dell'apertura di diverse indagini militari, ma esprimeva forti preoccupazioni in merito a diversi aspetti di tali indagini ed in particolare:

- sotto il profilo della mancanza di indipendenza delle indagini a causa del ruolo bicefalo del Military Advocate General (consulente giuridico dell'esercito nella fase di pianificazione delle operazioni militari e colui che, in seguito, decide se aprire o meno l'indagine);
- per la mancanza di trasparenza di tali indagini (le vittime infatti non sono di regola informate)
- sulla mancata tempestività delle indagini.

È significativo notare che l'unica condanna penale è stata per il furto di una carta di credito. Recentemente si è aggiunta un'altra condanna, a tre mesi con pena sospesa, nei confronti di due soldati per l'uso di un bambino come scudo umano. A ciò si possono aggiungere un piccolissimo numero (si contano sulle dita di una mano) di soldati incriminati relativamente ad incidenti isolati e spesso "minori". Le conclusioni sono sotto gli occhi di tutti: non è degna di questo nome una giustizia tanto debole che appare più volta a nascondere responsabilità che ad accertarle.

Il punto fondamentale del Rapporto del Comitato di Esperti affermava chiaramente che "Israele non ha condotto alcuna indagine sulle decisioni prese ai massimi livelli riguardo alla progettazione e esecuzione dell'operazione a Gaza. Una delle denunce centrali della Fact Finding Mission era che la sistematica e deliberata natura della distruzione a Gaza ha lasciato la Missione senza dubbi sul fatto che 'la responsabilità risiede in primo luogo a livello di coloro che hanno progettato, pianificato, ordinato e supervisionato l'operazione'. Tali presunte gravi violazioni vanno oltre la responsabilità individuale dei soldati e persino dei comandanti, e includono accuse rivolte a coloro che hanno preso le decisioni ai gradi più alti della catena di comando". (Par. 64)

E sul fatto che indagini militari non siano lo strumento appropriato per indagare crimini di tale natura e portata, il Comitato affermava che "L'indagine deve essere condotta da un organo davvero indipendente, dato l'intrinseco conflitto inerente ad un potere militare che esamina il suo stesso ruolo nel progettare ed eseguire l'"Operazione Piombo Fuso". (Par. 64)

Che il sistema giudiziario israeliano non garantisca la condizione di effettive indagini nei confronti dei presunti gravi crimini commessi dall'esercito è stato del resto già molte volte denunciato tanto a livello di organizzazioni internazionali indipendenti (si vedano tra gli altri i report di Amnesty International e Human Rights Watch) che di organizzazioni per i diritti umani israeliane (cfr il report di B'Tselem) e palestinesi (cfr il report del Palestinian Centre for Human Rights).

Lo stesso Rapporto Goldstone prevedeva che, in caso di fallimento delle indagini a livello domestico, si facesse ricorso ai meccanismi della giustizia penale internazionale.

A oltre due anni dai fatti l'intervento della Corte Penale Internazionale è necessario e urgente. La Corte dell'Aia è senza dubbio il foro adeguato per indagare ed eventualmente processare i responsabili dei presunti crimini commessi da entrambe le parti del conflitto,

come evidenziato dal Rapporto Goldstone.

Va in questa direzione la recentissima risoluzione del Consiglio dei Diritti Umani dell'Onu, che il 21 marzo scorso ha richiesto che l'Assemblea Generale investa il Consiglio di Sicurezza dell'Onu della questione (cfr. UNHRC Resolution). Ai fini della giurisdizione della Corte è auspicabile che sia il Consiglio di Sicurezza a deferire la questione al Procuratore della Corte dell'Aia, mediante una risoluzione adottata in forza del capitolo VII della Carta delle Nazioni Unite (come recentemente avvenuto nel caso della Libia).

Spetta alla comunità internazionale far sì che il rapporto Goldstone non venga ora sotterrato. Le parole di Richard Goldstone sul Washington Post non possono e non devono distogliere l'attenzione dalla sostanza dei fatti. Le troppe vittime di questo conflitto attendono ancora – da oltre due anni – di vedere un barlume di giustizia. Non solo non è stata svolta alcuna indagine adeguata, ma neanche alcun risarcimento è stato accordato, nemmeno in quei casi ove, per stessa ammissione dell'esercito israeliano, errori sono stati commessi: civili innocenti feriti e uccisi, le loro case, scuole, ospedali, fabbriche, le loro vite distrutte.

A tal proposito, ci piace richiamare le efficaci parole che lo stesso giudice Goldstone ha pronunciato nel settembre del 2009, in occasione della presentazione all'Onu del Rapporto che porta il suo nome:

“Una cultura dell'impunità è esistita troppo a lungo nella regione. La mancanza di accertamento delle responsabilità per crimini di guerra e possibili crimini contro l'umanità ha raggiunto il suo punto di crisi; la perdurante mancanza di giustizia sta mettendo a repentaglio ogni speranza di riuscita di un processo di pace e sta rinforzando un clima di violenza”(Justice Richard Goldstone, at the United Nations Human Rights Council, 2009).
Nena News

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Where now for the Goldstone report? Posted by John Dugard - 06 April 2011

<http://www.newstatesman.com/blogs/the-staggers/2011/04/goldstone-report-israel-rights>

In short, there are no new facts which could possibly have led Richard Goldstone to change his mind.

Richard Goldstone looks on after delivering his report before the Human Rights Council at the UN office in Geneva, 29 September 2009. Credit: Getty Images

In an op-ed in the Washington Post Richard Goldstone, former South African Constitutional Court judge and Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, expresses misgivings about the central finding of the UN Human Rights Council Fact Finding Mission Report on the Gaza Conflict of 2008-9 (named after its chairman, "the Goldstone report") that Israel's indiscriminate attacks on civilians were intentional.

The op-ed makes strange reading.

It states that the Goldstone report would have been a different document "had I known then what I know now" but fails to disclose any information that seriously challenges the findings of the Goldstone Report.

It claims that investigations published by the Israeli military and recognised by a follow-up UN Committee Report chaired by Judge Mary McGowan Davis, which appeared in March, "indicate that civilians were not intentionally targeted as a matter of policy", but the McGowan Davis report contains absolutely no such "indication" and instead seriously questions Israel's investigations, finding them to be lacking in impartiality, promptness and transparency.

Goldstone expresses "confidence" that the officer responsible for perhaps the most serious atrocity of Operation Cast Lead (Israel's codename for its assault on Gaza) -- the killing of 29 members of the al-Samouni family -- will be properly punished by Israel despite the fact that the McGowan Davis report provides a critical assessment of Israel's handling of the investigation into this killing.

Finally he claims that the McGowan Davis report finds that Israel has carried out investigations "to a significant degree", but in fact this report paints a very different picture of Israel's investigations of 400 incidents which have resulted in two convictions, one for theft of a credit card, resulting in a sentence of seven months imprisonment and another for using a Palestinian child as a human shield which resulted in a suspended sentence of three months!

In short, there are no new facts which exonerate Israel and which could possibly have led Goldstone to change his mind. What made him change his mind therefore remains a closely guarded secret.

The Goldstone report was not the only fact-finding report on Operation Cast Lead. Amnesty International, Human Rights Watch and the League of Arab States (whose mission I chaired) all produced thorough reports on the conflict.

In all reports, including the Goldstone report, there were accounts of the killings of civilians by Israel Defense Forces (IDF) in a cold, calculated and deliberate manner. But the principal accusation levelled at Israel was that in its assault on Gaza it used force indiscriminately in densely populated areas and was reckless as to the foreseeable consequences of its actions which resulted in at least 900 civilian deaths and 5,000 wounded.

In terms of the Rome Statute of the International Criminal Court it is a war crime to intentionally direct attacks against a civilian population (article 8(2)(b)(i)). Such an intention need not be premeditated: it suffices if the person engaging in such action meant to cause the consequence of his action or "is aware that it will occur in the ordinary course of events"(article 30).

Goldstone's op-ed may be interpreted to mean that he is now satisfied (although there is no evidence to support this) that Israel did not as a matter of policy deliberately and in a premeditated manner target civilians and that where the calculated killing of civilians occurred this was without the blessing of the Israeli military and political leadership.

But he could not possibly have meant that Israel did not "intentionally target civilians as a matter of policy" in the legal sense of intention. That Israel's assault was conducted in an indiscriminate manner with full knowledge that its consequences would be the killing and wounding of civilians is a matter of public record fully substantiated by the Goldstone Report and other equally credible reports.

In his op-ed Goldstone declares that Hamas's indiscriminate firing of rockets into Israel, which resulted in the killing of four civilians, was an "intentional" targeting of civilians and consequently a war crime. But how he can suggest that the indiscriminate bombing and shooting of Palestinians in Gaza by the IDF, which resulted in nearly a thousand civilian deaths, was not "intentional" is a mystery.

Goldstone does not, like his critics, describe his op-ed piece as a retraction of the Goldstone report. This is not surprising. Richard Goldstone is a former judge and he knows full well that a Fact Finding Report by four persons, of which he was only one, like the judgment of a court of law, cannot be changed by the subsequent reflections of a single member of the committee.

This can be done only by the full committee itself with the approval of the body that established the Fact Finding Mission - the UN Human Rights Council. And this is highly unlikely in view of the fact that the three other members of the Committee - Professor Christine Chinkin of the LSE, Ms Hina Jilani, an advocate of the Supreme Court of Pakistan and Colonel Desmond Travers, formerly an officer in the Irish Defence Force - have indicated that they do not share Goldstone's misgivings about the report.

Last month the Goldstone report was referred to the General Assembly of the United Nations by the Human Rights Council with the request that it be referred by the Assembly to the Security Council and that the Security Council submit the matter to the prosecutor of the International Criminal Court, as it has done in the cases of Darfur and Libya.

Doubtless the General Assembly will refer the Goldstone report to the Security Council, despite Goldstone's op-ed, but it will end there as the customary United States veto will ensure that Israel remains unaccountable.

The Goldstone report is a historical milestone. It is a credible, reasoned, comprehensive and thoroughly researched account of atrocities -- war crimes and crimes against humanity -- committed by Israel in the course of Operation Cast Lead and of war crimes committed by Hamas in the indiscriminate firing of rockets into Israel. It is a serious attempt to secure the accountability of a state that has for too long been allowed by the West to behave in a lawless manner.

That the credibility of the Goldstone report has been undermined by Richard Goldstone's strange op-ed in the Washington Post cannot be denied.

Although the Report was authored by four experts with the backing of a team from the

office of the High Commissioner for Human Rights it has undoubtedly come to be associated with the name of Richard Goldstone. Inevitably the misgivings he has expressed about his own role in the Report will weaken its impact as an historical record of Operation Cast Lead.

Already the Israeli Government has expressed delight at what it construes to be a retraction of the Report and demanded both a contrite apology from Goldstone and a refutation of the Report by the United Nations. Predictably the US Department of State has welcomed Goldstone's op-ed and one fears that European governments will find in it an excuse to justify their continued support for Israel.

Richard Goldstone has devoted much of his life to the cause of accountability for international crimes. It is sad that this champion of accountability and international criminal justice should abandon this cause in such an ill-considered but nevertheless extremely harmful op-ed.

John Dugard is Professor of Law, University of Pretoria; Emeritus Professor, University of Leiden; former UN Special Rapporteur on Human Rights in the Occupied Palestinian Territory.

Goldstone has paved the path for a second Gaza war , By Gideon Levy, Haaretz, April 7, 2011

Anyone who honored the first Goldstone has to ask him: What exactly do you know today that you didn't know then? Do you know today that criticizing Israel leads to a pressure-and-slander campaign that you can't withstand, you 'self-hating Jew'?

All at once the last doubts have disappeared and the question marks have become exclamation points. Dr. Ezzeldeen Abu Al-Aish wrote a short book in which he invented the killing of his three daughters. The 29 dead from the Al-Simoni family are now vacationing in the Caribbean. The white phosphorus was only the pyrotechnics of a war film. The white-flag wavers who were shot were a mirage in the desert, as were the reports about the killing of hundreds of civilians, including women and children. "Cast lead" has returned to being a phrase in a Hanukkah children's song.

A surprising and unexplained article in The Washington Post by Richard Goldstone caused rejoicing here, a Goldstone party, the likes of which we haven't seen for a long time. In fact, Israeli PR reaped a victory, and for that congratulations are in order. But the questions remain as oppressive as ever, and Goldstone's article didn't answer them - if only it had erased all the fears and suspicions.

Anyone who honored the first Goldstone has to honor him now as well, but still has to ask him: What happened? What exactly do you know today that you didn't know then? Do you know today that criticizing Israel leads to a pressure-and-slander campaign that you can't withstand, you "self-hating Jew"? This you could have known before.

Was it the two reports by Judge Mary McGowan Davis that led to your change of heart? If so, you should read them carefully. In her second report, which was published about a month ago and for some reason received no mention in Israel, the New York judge wrote that nothing indicates that Israel launched an investigation into the people who designed, planned, commanded and supervised Operation Cast Lead. So how do you know which policy lay behind the cases you investigated? And what's this enthusiasm that seized you in light of the investigations by the Israel Defense Forces after your report?

You have to be a particularly sworn lover of Israel, as you say you are, to believe that the IDF, like any other organization, can investigate itself. You have to be a blind lover of Zion

to be satisfied with investigations for the sake of investigations that produced no acceptance of responsibility and virtually no trials. Just one soldier is being tried for killing.

But let's put aside the torments and indecision of the no-longer-young Goldstone. Let's also put aside the reports by the human rights organizations. Let's make do with the findings of the IDF itself. According to Military Intelligence, 1,166 Palestinians were killed in the operation, 709 of them terrorists, 162 who may or may not have been armed, 295 bystanders, 80 under the age of 16 and 46 women.

All the other findings described a more serious picture, but let's believe the IDF. Isn't the killing of about 300 civilians, including dozens of women and children, a reason for penetrating national soul-searching? Were all of them killed by mistake? If so, don't 300 different mistakes require conclusions? Is this the behavior of the most moral army in the world? If not, who takes responsibility?

Operation Cast Lead was not a war. The differences in power between the two sides, the science-fiction army versus the barefoot Qassam launchers, doesn't justify things when the blow was so disproportionate. It was a harsh attack against a crowded and helpless civilian population, among which terrorists hid. We can believe that the IDF didn't deliberately kill civilians, we don't have murdering soldiers as in other armies, but neither did the IDF do enough to prevent them from being killed. The fact is, they were killed, and so many of them. Our doctrine of zero casualties has a price.

Goldstone has won again. First he forced the IDF to begin investigating itself and to put together a new ethics code; now he unwittingly has given a green light for Operation Cast Lead 2. Leave him alone. We're talking about our image, not his. Are we pleased with what happened? Are we really proud of Operation Cast Lead?