

Goldstone Report of Israel 'Flawed, Biased, Unwarranted'

The European Centre for Law and Justice (ECLJ) Tuesday filed a comprehensive response with the United Nations Human Rights Council (UNHRC) challenging the objectivity of the UNHRC-sponsored Goldstone Report on Israel's Operation Cast Lead in Gaza last year.

The UNHRC authorized a Fact-Finding Mission with a resolution that called for an investigation of "all violations of international human rights law and international humanitarian law by the occupying Power, Israel, against the Palestinian people throughout the Occupied Palestinian Territory, particularly in the occupied Gaza Strip, due to the current aggression."

The Goldstone Report accuses Israelis of war crimes and encourages states and the International Criminal Court (ICC) to exercise universal jurisdiction to prosecute the Israelis. Last January, the Palestinian Authority filed a "Declaration recognizing the Jurisdiction of the International Criminal Court" –attempting to accede to the ICC despite not meeting the statutory prerequisite of statehood for doing so.

The ECLJ Tuesday filed its Written Statement and supporting Memorandum on its analysis of the Goldstone Report with the U.N. Human Rights Council and will file the documents with the U.N. Security Council in the weeks ahead.

In its filings, the ECLJ highlights the systematic biases throughout the Goldstone Report and its failure to adhere to U.N. Guidelines and the International Bar Association Guidelines for proper and objective fact-finding.

Notably, each of the Goldstone Mission's four authors made

prior statements that indicated pre-existing biases against and conclusions about Israel, including Professor Christine Chinkin, who said Israel committed war crimes before she served on the Mission. The Goldstone Report, the ECLJ contends, fails to provide anything resembling the full and appropriate context that prompted Operation Cast Lead; including years of Hamas terror attacks against Israeli civilians and territory.

The Report consistently engages in speculation about what happened on the battlefield and on the mental state of Israeli soldiers. It makes faulty assumptions about the actions of Israeli soldiers and accuses them of using human shields, despite the questionable credibility of these accounts. It also exonerates Hamas of the same practice, despite abundant publicly available evidence to the contrary.

"The Goldstone Report makes a mockery of objective fact-finding," said Robert Ash, the American Center for Law and Justice's Senior Litigation Counsel for National Security Law, who worked extensively on the ECLJ filings.

"Instead of commending Israel for its efforts to avoid the Gaza conflict in the first place and then to avoid civilian casualties once the war began, the Goldstone Report blames Israel and gives a pass to Hamas and its terrorist allies who triggered the conflict. By exonerating Hamas from its responsibility for causing the war and for placing Palestinian civilians at risk, the Goldstone Report provides Hamas terrorists with a propaganda victory which encourages them to try the same thing again."

The Goldstone Report, which relies almost exclusively on second-hand Palestinian accounts and those of biased non-governmental organizations (NGOs), regularly extends credibility to those who criticize Israel, while questioning statements that portray Israel in a positive light or Hamas as engaging in illegal tactics. It also acknowledges that

Palestinians seemed reluctant to talk about the practices of armed groups in Gaza but does not draw the logical conclusion that it was due to Hamas terrorizing its own population.

Overall, the Goldstone Report states that it investigated 36 incidents, which Richard Goldstone acknowledged were chosen to further the conclusion that Israel's actions were unjustified. It criticizes Israel for how it tried extensively to issue warnings to Palestinian civilians, arguing that it caused confusion among the population. It also consistently misstates the legal standards for things like issuing warnings, delivering humanitarian aid, and using munitions for screening soldiers, and it pronounces legal opinions on things such as the status of the Palestinian territories—which it refers to as the “Occupied Palestinian Territories”—items far beyond the scope of the Goldstone Report.

“The real danger from the Goldstone Report is that countries will believe the many falsehoods contained in it and urge the International Criminal Court to try Israeli officials for war crimes that they did not commit and, in fact, took Herculean measures to avoid,” said Ash.

The ECLJ's response analyses why there is insufficient information to conclude that Israel committed any war crimes or crimes against humanity during Operation Cast Lead, and why the evidence, in fact, indicates the contrary.

It further addresses why any attempt to investigate or exercise jurisdiction over Israelis would be improper due to, among other reasons, the complementarily provision of the Rome Statute, which restricts jurisdiction when a state that has primary jurisdiction is willing and able to investigate and prosecute internally, as Israel has and continues to do.

The European Centre for Law and Justice (ECLJ) is an international law firm focusing on the protection of human rights and religious freedom in Europe and worldwide. The ECLJ

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