

The Ugly Premise of 'Settlement' Opponents

By R. James Woolsey The Wall Street Journal October 11, 2009

About 20% of Israel is Arab. Would it be a tragedy if 10% of future Palestine is Jewish? At the Aspen Institute's Ideas Festival this past July, Salam Fayyad, acting prime minister of the Palestinian Authority, spoke enthusiastically about the rule of law in a future Palestine. I asked him whether the same rights would be available to Jewish citizens of a Palestinian state that are available to the over one million Arab citizens of Israel. Could they enjoy freedom of religion and speech, and be able to vote for real representatives in a real legislature? Most importantly, would they be able to sleep at night without worrying that someone might kick down the door and kill them?

Mr. Fayyad responded: "I'm not someone who will say that they would or should be treated differently than Israeli Arabs are treated in Israel. In fact, the kind of state that we want to have, that we aspire to have, is one that would definitely espouse high values of tolerance, coexistence, mutual respect and deference to all cultures, religions. No discrimination whatsoever, on any basis whatsoever. Jews, to the extent they choose to stay and live in the state of Palestine, will enjoy those rights and certainly will not enjoy any less rights than Israeli Arabs enjoy now in the state of Israel."

Such a policy would mark a substantial change from the Palestinian Authority's first law adopted in 1994: the death penalty for any Palestinian who sells land to Jews. Over 100 Palestinians have died, under sentence or extrajudicially, for such sales in the last 15 years, including one last May. The Fatah (Mr. Fayyad's party) charter foresees a Palestine that is free of Jews. And recently Fatah demanded that Israel give up all of Jerusalem before it would begin negotiations on a two-state solution.

But suppose Mr. Fayyad's statement marks a tentative turn away from these positions?

The Obama administration seems determined to discourage any such shift. It remains committed to stopping growth of any kind in all Jewish settlements in the West Bank. This policy implies acquiescence in the banning of Jews from a future Palestinian state.

Why? The administration's fixation on preventing even minor construction internal to a settlement assumes that Jewish settlers are on the verge of taking over the entire West Bank. This is fanciful: There are about 200,000 Jewish settlers in the West Bank, and 2.5 million Palestinians in the

West Bank and Gaza. The settlers live on about 1.5% of the West Bank, and the very substantial majority are in four major settlement blocs around Jerusalem.

In the two previous administrations, the U.S. had accepted that in any reasonable peace agreement these four blocs would remain under Israeli control, and that some Israeli land would be transferred to the new Palestinian state. This was the assumption in the parameters that President Clinton proposed to Ehud Barak and Yasser Arafat in January 2001.

The Obama administration, on the other hand, seems quite opposed to any such small land adjustments. The president said on Sept. 23 at the U.N. that "America does not accept the legitimacy of continued Israeli settlements" and that our goal was to end "the occupation that began in 1967."

It's still unclear why the administration has a problem with Jews living in the West Bank. Even if every settlement and its residents were transferred to Palestinian sovereignty, Jews would still comprise under 10% of the population of the new Palestinian state. Arabs, overwhelmingly Muslim, would continue to comprise nearly 20% of Israel's population. Why should such a Jewish minority be forbidden in Mr. Fayyad's Palestine?

It would of course take some time for his hopes to become reality. It is also clear that without American support for religious and political freedom in Palestine, there is no chance that Palestinian leaders will decide to make their country one in which Jews can feel safe. Yet rather than promoting the rule of law in a future Palestine, the Obama administration essentially urges us to accept that, because Palestinians will kill unprotected Jews, Jews cannot be permitted in a Palestinian state.

This is what the late New York Senator Daniel Patrick Moynihan called "defining deviancy down." Will it provide the basis for peace in the Middle East for us to define deviancy for Palestinians in such a way that essentially accepts Fatah's goal of a Jew-free Palestine? As Mr. Moynihan once wryly understated it, such a move would simply be our deciding to "get used to a lot of behavior that is not good for us"—let alone for Israelis and Palestinians.

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The Newest Round of War

By Caroline Glick TownHall.com October 10, 2009

An atmosphere of fantasy pervaded US President Barack Obama's Middle East peace processor George Mitchell's meetings with Israeli leaders on Thursday. In separate photo opportunities, Mitchell stood next to President Shimon Peres and Defense Minister Ehud Barak and pledged to surmount all obstacles to achieve peace not only between Israel and the Palestinians but between Israel and Syria and Lebanon and with the whole Arab world.

Mitchell's remarks were even more stunning than similar statements from him during previous visits, because this week the Palestinians launched their newest terror campaign against Israel. Like previous rounds of Palestinian terror against Jews beginning in 1929, the latest round has been precipitated by wholly fabricated claims by Muslim leaders that Israel is asserting Jewish rights to the Temple Mount - Judaism's most sacred site - and so endangering the Muslim claim to the sole right to worship at the site that was never even mentioned in the Koran.

Beginning last week, convicted felon Raed Salah - who served a prison sentence for his Israeli Islamic Movement's northern branch's financial and other ties to Hamas - began inciting Israeli and Palestinian Muslim worshipers to make war against Israel. As he does every few months, Salah claimed falsely that Jews were committing the unforgivable "crime" of seeking to worship on the Temple Mount during Succot. Succot, which we observed this past week, is of course one of the three harvest festivals in which Jews are commanded to go up to the Temple Mount. This time, Salah's lies were accompanied by similar ones from Hamas leaders and Fatah leaders alike.

As is their standard practice, Palestinian leaders used known euphemisms in their declarations of war. Rather than openly call for Jews to be slaughtered, they called on Muslims to defend the Temple Mount from fictional Jewish assault. Wheelbarrows of rocks were found stockpiled on the Temple Mount on Monday. The rocks made clear the intention of Muslim leaders to reenact the 1990 stoning of Jewish Succot worshipers at the Western Wall. That Muslim assault precipitated a steep increase in Palestinian terror during the months that followed.

This week's riots similarly recall the 1996 Palestinian onslaught. That aggression was justified by the false Palestinian allegation that Prime Minister Binyamin Netanyahu's decision to open the Western Wall archeological tunnel was part of a secret plot to dislodge the Aksa Mosque. Yasser Arafat used his manufactured libel as an excuse to order his US-trained and Israeli-armed Palestinian security forces

to open fire at IDF soldiers. In the violence that followed some 15 soldiers were killed.

The most violent exploitation of fabricated claims of Jewish aggression against Judaism's most sacred site to date, of course, came in September 2000. Then Arafat and his deputies in Fatah supported by Hamas and the Israeli Islamic Movement claimed that then-opposition leader Ariel Sharon's September 28, 2000, visit to the Temple Mount - a visit that had been coordinated in advance with the PA - was an act of war against the Palestinians and against Islam as a whole. More than 1,500 Israelis were killed in the seven years of terror war that followed.

Perhaps the most overt call for a renewal of jihad against Israel this week came from Fatah leader and titular PA President Mahmoud Abbas. In an interview on Yemenite television, Abbas said, "The second intifada erupted because of Sharon's visit to [the Temple Mount] and... it lasted seven years. This time, therefore the matter of Jerusalem requires a much greater effort [by the Palestinians], something more practical. It's not enough to talk about Jerusalem in books, or to give sermons in mosques. There is a need to work for it."

THE NEWEST round of violence has been building up for the past month. According to data released by the IDF, over the past month, the volume of terror attacks nearly doubled, from 53 attacks in August to 95 in September. This week's spike in violence caused IDF commanders to warn of the possibility that the violence will spread throughout Judea and Samaria. With the near seamless integration of Arab Israeli leaders in the incitement of violence, there is good reason for concern that Arab Israelis will play a prominent role in the newest round of jihad against Israel.

Abbas and his prime minister Salaam Fayad have augmented their violent attacks against Israel with a renewed diplomatic assault against the Jewish state. Fayad and Abbas have both called for the US and European governments to condemn Israel's imaginary provocations and moves to "Judaize" the eternal capital of the Jewish people. Rather than condemn these Fatah leaders for their key roles in inciting violence, the Europeans have been embracing them. Led by Sweden, which holds the rotating EU presidency, European governments have demanded that Israel end its provocative behavior.

For its part, rather than dismissing these obviously false allegations out of hand, the Obama administration demanded that Israel give an accounting of its actions to prove that it is not provoking Palestinian violence.

How long the newest Palestinian campaign lasts, and how many Israelis will be killed is still unknown. Due in large part to their military training provided by the US under Lt.-Gen. Keith Dayton, Fatah forces in Judea and Samaria are today better trained and equipped than ever before. In Gaza, Hamas is preparing for a new round of war by housing poor Palestinians along the border with Israel to make it difficult for Israel to defend itself without killing Hamas's civilian shields. At the same time, the IDF remains stronger than these Palestinian forces. So Israel's eventual victory over this new terror campaign is a foregone conclusion, contingent only on the political courage of its leaders.

SINCE THE Palestinians must know that their new terror campaign will end in an Israeli victory, it is worth considering why they have anyway decided to launch it. Four explanations come to mind.

First, it is notable that the calls for jihad are being sounded three weeks before Hamas and Fatah leaders are scheduled to meet in Cairo to reinstate their unity government pending a new round of parliamentary and presidential elections next year. It is possible that in inciting a new terror war against Israel, Abbas and Fayad and their comrades in Fatah are signaling Hamas that they will be willing collaborators in a Hamas-dominated government.

Then, too, since Hamas is favored to win both of those elections, Fatah leaders may be using their calls for jihad to increase their popularity among Palestinians ahead of a possible bid to cancel the elections or in anticipation of the likely derailment of the negotiations toward a unity government. Whatever the case, the looming talks between Hamas and Fatah no doubt figure prominently in the new round of anti-Jewish violence.

The second reason for the renewal of Palestinian violence against Israel and the use of false allegations of Jewish provocations on the Temple Mount as a justification for that violence is that Fatah leaders believe that they can use their campaign to convince the Obama administration to redouble its pressure on Israel to make massive concessions to the Palestinians even before any "peace" negotiations begin. This was Arafat's goal in inciting the 1996 violence. At that time, his gambit was wildly successful. Then-US president Bill Clinton responded to the Palestinian violence by blaming Netanyahu and forcing him to begin negotiating the IDF's redeployment from parts of Hebron.

There is also the possibility that Raed Salah - the most visible force behind this week's Temple Mount riots - is using them to jockey for a more powerful position in the Israeli Arab-Palestinian leadership hierarchy. Inspired by the Hamas takeover of Gaza and Hizbullah's chokehold on the Lebanese government, Salah may have decided that the time is

ripe for Israeli Arabs to raise their profile in the jihadist pecking order.

The fourth possible explanation for the current round of violence is that it is being incited by the Syrian and Iranian governments who together control Hamas and are influential in Fatah and Israeli Arab circles. Iranian and Syrian interest in provoking such violence now is clear. If the Netanyahu government and the IDF are kept busy contending with Palestinian terrorism, it will be more difficult for them to address Iran's nuclear weapons program either diplomatically or militarily.

All of these possible causes of the violence shed light on how events are likely to progress. Future events, after all, will in large part reflect the interests of the parties involved in inciting the current attacks against Israel.

BY THE same token, the European and American responses to Palestinian calls for violence against Israel and Jews show how the newest round of Palestinian aggression against Israel is likely to be greeted by the West. In its easy willingness to accept false Palestinian accusations about imaginary Israeli provocations, the EU is demonstrating that a transformation has taken place in its policy toward the Arab conflict with Israel. Whereas in the past the EU has been a more or less neutral actor in the region - officially refusing to support either side, while unofficially siding with the Palestinians against Israel - the European position on the Palestinian violence over the past week has been indistinguishable from the Arab League's position. Europe's newfound willingness to openly side with the Palestinians against Israel makes clear that the EU's role in the violence to come will be qualitatively different from the role it has played in past Palestinian terror campaigns. Israel's ability to launch a relevant and coherent diplomatic campaign to defend itself is contingent on the Foreign Ministry recognizing that a transformative shift has taken place in Europe's treatment of Israel.

And this brings us back to George Mitchell in Jerusalem. What Mitchell's absurd statements about peace breaking out in the region in the near future show is that the Obama administration is perfectly willing to pretend away the Arab violence against Israel. Whether motivated by naivete, an overarching desire for international peace conferences, a plan to align US foreign policy with that of Europe, or hostility toward Israel, the fact that Mitchell can talk about peace when the Palestinians have just declared war makes clear that the Obama administration is uninterested in playing a constructive role in quelling the violence. It certainly isn't interested in helping Israel to secure the lives of its citizens.

Israeli officials have sought to play down the significance of the events this week in Jerusalem. This is a mistake. If the newest round of violence is

to end quickly and at a minimal cost in lives, it is essential for Israel to stop defensively humoring

Mitchell and move quickly to offense, both militarily and diplomatically.

Peace vs. the 'peace process'

By Jeff Jacoby The Boston Globe October 14, 2009

"Whom The Gods Would Destroy," the late Irving Kristol once observed, "they first tempt to resolve the Arab-Israeli conflict." Maybe "destroy" was putting it a bit strongly, but there is no denying that American presidents seem irresistibly drawn to the belief that they can succeed where others have failed and conjure a lasting peace between Israel and its Arab enemies. This diplomacy has gone by various names -- Oslo, the Roadmap, Camp David, and so on -- but time and again it has led not to the end of the conflict but to its intensification.

In his memoirs, former President Bill Clinton describes Yasser Arafat's refusal to accept the extraordinarily generous terms for a permanent settlement offered by Israeli Prime Minister Ehud Barak at Camp David in 2000. That refusal led to a Palestinian terror war, the bloody Second Intifada, and when Arafat called Clinton in January 2001 to tell him what a great man he was, Clinton was bitter. "I am not a great man," he told Arafat. "I am a failure, and you have made me one."

Of course, if Clinton was a failure so were the two George Bushes. Each made it his goal to resolve the Arab-Israeli conflict, each convened a grand international conference for that purpose (Bush 41 in Madrid, Bush 43 in Annapolis), and each left the situation worse than he had found it.

In his first nine months as president, Barack Obama has shown every sign of succumbing to the same temptation. Two days after moving in to the White House, he named George Mitchell, the former Senate majority leader, his special envoy to the region. He pressured Israeli Prime Minister Benjamin Netanyahu into endorsing a "two-state solution." He declared that "the moment is now for us to act" to achieve peace in the Middle East.

Unlike his recent predecessors, Obama has gone out of his way to signal a distinct coolness toward Israel and its interests. At a White House meeting with the leaders of American Jewish organizations in July, he suggested that because there had been "no daylight" between Israel and the United States when George W. Bush was president, there had been "no progress" toward peace.

In fact, there had often been "daylight" between Washington and Jerusalem during the Bush years. There had been plenty of movement too, from the adoption of the Roadmap to the Israeli

"disengagement" from Gaza to the final-status negotiations that followed the Annapolis conference.

Still: Obama was right when he said there had been no progress toward Arab-Israeli peace under Bush. Nor had there been any under Clinton. Nor, as things stand now, will there be any under Obama.

Why? Because the "peace process" to which all of them, their sharp differences notwithstanding, have been so committed is not a formula for ending the decades-long war in the Holy Land, but for prolonging it.

In an important article in the current Middle East Quarterly, Daniel Pipes reviews the terrible failure of the 1993 Oslo accords, and homes in on the root fallacy of the diplomatic approach it embodied: the belief that the Arab-Israeli war can "be concluded through goodwill, conciliation, mediation, flexibility, restraint, generosity, and compromise, topped off with signatures on official documents." For 16 years, Israeli governments, prodded by Washington, have sought to quench Palestinian hostility with concessions and gestures of goodwill. Yet peace today is more elusive than ever.

"Wars end not through goodwill but through victory," Pipes writes, defining victory as one side compelling the other to give up its war goals. Since 1948, the Arabs' goal has been the elimination of Israel; the Israelis', to win their neighbors' acceptance of a Jewish state in the Middle East. "If the conflict is to end, one side must lose and one side win," argues Pipes. "Either there will be no more Zionist state or it will be accepted by its neighbors."

Diplomacy cannot settle the Arab-Israeli conflict until the Palestinians abandon their anti-Israel rejectionism. US policy should be focused, therefore, on getting them to abandon it. The Palestinians must be put "on notice that benefits will flow to them only after they prove their acceptance of Israel. Until then -- no diplomacy, no discussion of final status, no recognition as a state, and certainly no financial aid or weapons."

So long as American and Israeli leaders remain committed to a fruitless Arab-Israeli "peace process," Arab-Israeli peace will remain unachievable. Let the newest Nobel peace laureate grasp and act upon that insight, and he may do more to genuinely hasten the conflict's end than any of his well-meaning predecessors.

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Goldstone Backs Away from Report

By Alan M. Dershowitz The Hudson Institute October 13, 2009

The Two Faces on an International Poseur With so much (though not all) of the civilized world justly condemning (or ignoring) the Goldstone report for its distortion of the facts and its one-sided condemnation of Israel, Richard Goldstone himself now seems to be backing away from the report's conclusions—at least when he speaks to his Jewish audiences.

In an interview with Jewish Forward, Goldstone denied that his group had conducted “an investigation.” Instead, it was what he called a “fact-finding mission” based largely on the limited “material we had.” Since this “material” was cherry-picked by Hamas guides and spokesmen, Goldstone acknowledged that “if this was a court of law, there would have been nothing proven.” He emphasized to the Forward that the report was no more than “a road map” for real investigators and that it contained no actual “evidence,” of wrongdoing by Israel.

“Nothing proven!” No “evidence!” Only “a road map!” You wouldn't know any of that, of course, by reading the report itself or its accompanying media release. In the text of the report itself, Goldstone neither sought to clarify nor explain what he now claims is the limited scope and legal implications of the report. The language of the report reads like a judicial decision, making findings of fact (nearly all wrong), stating conclusions of law (nearly all questionable) and making specific recommendations (nearly all one-sided). According to the Forward: “...the report itself is replete with bold and declarative legal conclusions seemingly at odds with the cautious and conditional explanations of its author. The report repeatedly refers, without qualification, to specific violations of the Fourth Geneva Convention committed by Israel and other breaches of international law. Citing particular cases, the report determines unequivocally that Israel “violated the prohibition under customary international law” against targeting civilians. These violations, it declares, ‘constitute a grave breach’ of the convention.”

It is as if there were two entirely different “Goldstone Reports.” The first submitted to the United Nations and the second to the Jewish community. In speaking so differently to different “audiences,” Goldstone is reminiscent of Yassir

Arafat, who perfected the art of double-speak, by using bellicose language when addressing Arab audiences and more accommodating language when addressing western audiences.

Goldstone apparently lacked the courage to stand up to the other members and staffers of his commission and to insist that his clarifying language be included in the report itself. Nor did he have the courage to file a dissenting or concurring statement. Instead, he spoke out of both sides of his mouth, sending one message to those who read the actual report and a very different message to those who read his words in the Jewish Forward (and the New York Times for whom he wrote a more ameliorative op-ed on the day after the release of the Report). In doing so, he is trying to have it both ways.

Goldstone went so far as to tell the Forward that he himself “wouldn't consider it in any way embarrassing if many of the allegations turn out to be disproved.” This is total nonsense. Goldstone has put his imprimatur—and his reputation—behind the reports' conclusions. The only reason anyone is paying any attention to yet another of the serial condemnatory reports by the United Nations Human Rights Council is because Richard Goldstone—a “distinguished” Jew—allegedly wrote it and signed on to its conclusions. If he really doesn't stand by its conclusions—if he doesn't care one way or another whether they are true or false, proven or unproven—then no extra weight should be given to its findings or conclusions because of the “distinguished” reputation of its Jewish chairman.

But weight is being given by some to its “unproven” and uninvestigated allegations which Goldstone admits may be wrong. There have been calls for boycotts, divestments, war crime prosecutions and other forms of condemnation based on the conclusions reached (or not reached, depending on which side of Goldstone's mouth one is listening to) by the Report.

If Goldstone stands behind what he told the Forward, then he must come forward and condemn those who are treating his report as if the allegations were based on “evidence” and “proven.” Don't hold your breath, because such a statement would be heard by both of Goldstone's audiences at the same time.

UN report a victory for terror

By Michael Oren The Boston Globe September 24, 2009

Consider this scenario. In response to the atrocities of 9/11, the United States invades Afghanistan and battles non-uniformed Taliban terrorists who fight within densely populated areas. Though American forces do their utmost to avoid inflicting civilian

casualties, many innocents are killed - not the least because the Taliban uses them as human shields. Nevertheless, the United States carefully investigates each civilian death and, in the case of misconduct, punishes those soldiers responsible.

But then an international organization notorious for its one-sided condemnations of America launches an investigation into US "war crimes." The inquiry is held under Taliban auspices, and Taliban commanders - disguised as civilians - are interviewed. Inexorably, the organization finds America guilty of mounting a pre-meditated campaign to inflict the maximum amount of civilian deaths and of failing to try those responsible. The final report calls for punitive action against the United States for its "crimes against humanity."

If true, this scenario would mark an unparalleled victory for terror and deal a crippling blow to any democracy trying to defend itself. Yet, this is precisely the catastrophe created by a UN report on Israeli military actions against Hamas in Gaza last January. The UN Human Rights Commission, which has condemned Israel more frequently than Libya, Saudi Arabia, and North Korea combined, undertook to investigate "all violations of international human rights law" in the Israeli operation - essentially presuming Israel's guilt. The judges, one of whom had already denounced Israel in print, conducted their hearings in Hamas-controlled Gaza and interviewed witnesses, including several Hamas operatives posing as civilians, selected by the regime. They ignored Israel's deeply-probing investigation into its own force's conduct and found only the evidence that confirmed their preordained conclusion. Israel was found guilty of attacking "the people of Gaza as a whole," of violating their "fundamental rights and freedoms," and arbitrarily killing them.

Just as the United States entered Afghanistan in response to an unprovoked attack on American civilians in 2001, so, too, did Israel's intervention, which followed more than 7,000 Hamas rocket and mortar strikes on Israeli towns and villages since the Israeli withdrawal from Gaza in 2005. Given the UN Human Rights Commission's silence in the face of this aggression, and Hamas's rejection of Israeli

offers to renew a cease-fire, Israel exercised its unassailable right to defend its citizens.

Despite Hamas's cynical use of civilians as human shields, the Israel Defense Forces repeatedly called off operations deemed too dangerous to civilian populations and endangered its own troops by warning Palestinian neighborhoods of impending attacks. Yet even the most moral army can make mistakes, especially in dense urban warfare; for every Serbian soldier killed by NATO in 1999, for example, four civilians died. By comparison, more than half of the Palestinian casualties in Gaza were military. Still, Israel launched investigations into some 100 cases of alleged misconduct by its soldiers, 23 of which continue. If found guilty, as one soldier already has been, the perpetrators will be brought to justice under Israel's internationally respected legal system. But the UN report is not about justice. Rather, it is the latest initiative designed to delegitimize Israel and deny its right to self-defense.

The UN report not only endangers Israel. It bestows virtual immunity on terrorists and ties the hands of any nation to protect itself.

Ironically, the greatest victim of the UN report is not Israel's ability to wage a moral war but its willingness to make an historic peace. If asked to take immense risks for peace, Israelis must be convinced of their internationally recognized right to self-defense should that peace be broken. Deprived of that right, even after being subjected to years of murderous rocket attacks, an Israeli electorate will understandably recoil from such risks.

The UN report must therefore be rejected by all those who understand that democratic states must have the legitimate means to defend themselves from complex 21st-century threats. No less critically, the report must be rebuffed by all those who care about peace.

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Barak Obama's 1967

By Zalman Shoval The Jerusalem Post

US President Barack Obama's inspirational speech at the UN included more than a few passages about the Middle East conflict. He expressed the hope for "a just and lasting peace between Israel, Palestine, and the Arab world," a wish shared by all Israelis. Upon closer look at some of the president's statements, several question marks arise.

The speech didn't, for instance, mention Islamic fundamentalism or Jihadism, the principal reasons for instability in the Middle East and beyond. Nor did it condemn the Arab world's refusal to acknowledge the Jewish people's right to a state of its own. No less problematic, the reference to ending "the occupation that began in 1967" puts history on

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its head, as it implies, perhaps unintentionally, that Israel's occupation of the West Bank is the cause of the Arab-Israeli conflict. This clearly inverts cause and effect. As the writer and historian Simon Schama wrote, history should endeavor "to disentangle fact from fable," also reminding us that one of America's Founding Fathers, John Adams, had said "Facts are stubborn things." Well, the facts regarding the conflict in the Holy Land, though often deliberately or inadvertently distorted or ignored, are indeed "stubborn." Terrorist activities against Israel had started years before the "occupation," and the PLO committed to the destruction of the Jewish state was founded in 1964

No less important in the factual and historical sense are the actual antecedents of the "Six-Day War" which resulted in the "occupation" to which the president's speech referred.

On May 13, 1967 the Egyptian dictator Gamel Abdel Nasser announced that two Egyptian divisions would move into the Sinai Peninsula bordering on southern Israel - contrary to international agreements, US commitments and UN guarantees. Caving in to Nasser's blustering, the then UN Secretary U Thant agreed to remove the UN emergency force from the area.

The next day, Egyptian armored and infantry columns crossed the Suez Canal and started moving towards the Israeli frontier. Shortly after, Cairo announced that it would block all shipping to the port of Eilat, Israel's only maritime outlet in the south, while Egyptian Mig21 war planes began flying over Israeli territory including the Dimona area. Concurrently, Syrian and Iraqi forces were ordered to prepare for an assault on northern Israel. The minimum strategic aim of the Egyptians, as was revealed later, was to cut off Israel's Negev from the rest of the country - but Nasser himself, in both public and secret statements, left no doubt that his ultimate aim was the complete annihilation of the State of Israel. A decisive turning point leading up to the Six-Day War and grievously affecting the history of the entire Middle East to this day, occurred on May 30, 1967. On that date, King Hussein of Jordan, who had been regarded both by Israel and the US as a paragon of peace and moderation, without warning, infamously signed a military agreement with Egypt's Nasser, his former bitter enemy, including a Jordanian commitment to join Egypt in any war with Israel, stationing Egyptian and Iraqi forces inside Jordan. The "Arab Legion," considered by many as the Arab world's best fighting machine, was put under Egyptian command. Cairo radio crowed that now Israel's only escape was the sea.

Jordan (formerly Trans-Jordan) had in 1948 occupied and later annexed the western part of

Palestine, hence called the "West Bank" - thus making the kingdom Israel's next door neighbor, abutting on most of the latter's population centers, including west Jerusalem and Israel's only international airport. King Hussein's precise motives are debatable; some believe that he wanted to placate the Palestinian majority inside his country, others ascribed it to the King's desire to get part of the spoils if the Arabs were to be victorious against Israel.

The rest, as the expression goes, is history. The war broke out on June 5; the Egyptian air force was totally destroyed on the first day and the IDF advancing toward the Suez Canal, wiped out the Egyptian forces in its wake. The blockade of Eilat was lifted. In the north, the Golan Heights from which the Syrian army began its attack on Israel, were taken - and Jordanian troops, after an unsuccessful attempt to force their way into West Jerusalem, were, after several days of hard fighting, expelled from all of the land west of the Jordan River. Israel had achieved complete victory in a war of legitimate self-defense against blatant aggression whose declared aim had been its obliteration.

All of the above was fully acknowledged by most of the nations of the world, though not, of course, by the Arab countries and their allies, or by the Soviet Union which according to some views, had actually egged on the Arab governments in their aggressive designs. Successive American leaders declared that Israel should never be asked to go back to its former vulnerable borders, while the UN Security Council adopted Resolution 242 which specifically linked any Israeli withdrawals from "territories" to achieving secure borders.

This is what 1967 is all about: not "ending" occupation, but making sure that Israel will never again be put in a situation like the one it faced in that fateful year.

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It looks like law, but it's just politics

By Warren Goldstein The Jerusalem Post

October 14, 2009

Much has been written and said about the inaccuracies, shortcomings and the moral inversion of the United Nations Human Rights Council's Mission presided over by Judge Richard Goldstone and his three fellow members. Most critics have understandably addressed the political and military issues involved. It is important, however, also to deconstruct the Goldstone Mission's Report from a legal point of view.

This is so because the report uses the veneer of respectability that comes with legal methodology, and with the presence of an internationally respected judge, to gain credibility. Law is a very powerful

weapon to give respectability to contemptible actions and opinions. The South African Apartheid Government was very legalistic in its approach to racial oppression, and was punctilious about promulgating proper laws, and about maintaining a fully functioning judiciary to give the façade of respectability to its repugnant policies.

The United Nations, through its various organs, but particularly through its Human Rights Commission, uses the superficial veneer of law and legal methodology to give credence and credibility to its anti-Israel agenda. The Goldstone Mission is a case in point. Careful analysis reveals that the

legalities utilized are merely a cover for a political strategy of deligitimizing Israel. Judge Goldstone claims that the Mission "is not a judicial enquiry [but is] a fact-finding mission."

This is a distinction without a difference. The Mission's Report makes numerous factual findings, and some legal, just as if it were a judicial body.

The Report could have salvaged some measure of integrity had it stated that its findings, both legal and factual, were only *prima facie*. It did not do so.

Judges make factual and legal findings which have practical implications. There are very real consequences for Israel resulting from the findings of the Mission. Apart from holding Israel liable in international law to pay war reparations, Judge Goldstone refers the findings to the highest authorities of international law, including the United Nation's General Assembly and the Security Council, and he recommends the commencement of criminal investigations in the national courts of the state signatories to the Geneva Convention of 1949. Of course, the Report also inflicts very great and real harm to Israel's reputation in the court of world opinion. This has serious political, economic and military implications for Israel's future, and for its very survival.

Any civilized legal system requires that justice be done on two levels: procedural and substantive. The Goldstone Mission is replete with procedural and substantive injustices. From a procedural point of view, there are four main areas of injustice.

Firstly, the Human Rights Council's Resolution S-9/1 establishing the Mission expressly states that it "[s]trongly condemns the ongoing Israeli military operation [in Gaza] which has resulted in massive violations of the human rights of the Palestinian people," and in so doing pre-judges the guilt of Israel. The Resolution refers many times to Israel's guilt in a very lengthy document which is phrased in wide, undisciplined and aggressive language. Furthermore, it calls upon the Mission to investigate Israel's conduct and not that of Hamas. Although Goldstone and the President of the Human Rights Council purported to extend the ambit of the mandate, the legal basis for their doing so without the express authority of the Council is not clear.

The second procedural injustice is that the members of the Mission publicly expressed beforehand their opinions on this conflict. The most explicit in this regard, Professor Christine Chinkin, was one of the signatories to a letter published in the Sunday Times of London which stated that "Israel's actions amount to aggression, not self-defense, not least because its assault on Gaza was unnecessary." The letter is published under the heading "Israel's bombardment of Gaza is not self-defense - it's a war crime."

The other three members, Judge Richard Goldstone, Hina Jilani and Desmond Travers, all signed a letter initiated by Amnesty International stating: "Events in Gaza have shocked us to the core." Thus, all four members of the Mission, including Goldstone himself, expressed public opinions concerning the Gaza conflict before they began their work.

Thirdly, the Goldstone Mission violated another basic principle of justice, *audi alteram partem* - let the other side be heard. At least due to the procedural injustices already referred to, the State of Israel correctly refused to cooperate with the Mission. Once it had done so the Mission ought, if it were objective and fair, to have accepted Israel's right to remain silent and then ought to have desisted from making findings whether factual or legal. But it did not do so, and as any lawyer knows unanswered allegations often prove unreliable and in almost all conflict situations there are serious disputes of fact, and often of law as well.

The Mission's findings were based on accepting the allegations of only one party to the conflict. The Mission did not try to cross-examine or challenge the witnesses in any real way. There is a lengthy, fascinating article by Jonathan HaLevi of the Jerusalem Center for Public Affairs in which he analyses in detail the methodology employed by the Mission in respect of witnesses. He demonstrates that there was a lack of adequate cross-examination of the testimony of the witnesses. Unproven allegations of Hamas officials were accepted as established facts. Even the most basic questions were not asked; when, for example, allegations were made of Israel's bombing civilian installations, witnesses were not asked whether there were Hamas fighters or weaponry in the vicinity, or whether any attacks had been launched from the area.

There is a fourth procedural injustice which undermines the integrity and credibility of Judge Goldstone and the three other members of the Mission: There simply was not enough time to do the job properly. Any lawyer with even limited experience knows that there was just not sufficient time for the Mission to have properly considered and prepared its report. One murder trial often takes many months of evidence and argument to enable a judge to make a decision with integrity. To assess even one day of battle in Gaza with the factual complexities involved would have required a substantial period of intensive examination. According to the Mission's Report, the Mission convened for a total of 12 days.

They say that they considered a huge volume of written and visual material running into thousands of pages; they conducted three field trips; there were only four days of public hearings; and yet in a relatively short space of time the members of the

Mission agreed to about 500 pages of detailed material and findings with not one dissenting opinion throughout. They made no less than 69 findings, mostly of fact, but some of law and within those 69 there were often numerous sub-findings.

All of this was quite simply physically impossible if the job had been done with integrity and care.

The fourth procedural injustice also demonstrates the total sham of this process.

The substantive injustices of the Goldstone Mission's Report are too numerous to mention in this article, but one illustrates how far the Mission was prepared to go, and that relates to the very important legal element of intent. Goldstone and his Mission impute the worst of intentions to the actions of the State of Israel, finding that Israel's conduct was motivated by a desire to repress and oppress, and to inflict suffering upon the Palestinian people, and not primarily for the purpose of self-defense. It does this without any evidence and then, without any supporting evidence, asserts that many of Israel's military operations such as that of Lebanon were motivated by the same goal.

The Mission fails to mention a modern leading military expert, Colonel Richard Kemp (the former commander of British forces in Afghanistan), who said, "From my knowledge of the IDF and from the extent to which I have been following the current operation, I do not think there has ever been a time in the history of warfare when an army has made more efforts to reduce civil casualties and deaths of innocent people than the IDF is doing today in

Gaza." By contrast, on the Palestinian side, there is very clear evidence as to Hamas's intentions - the Hamas Charter openly calls for the destruction of Israel, irrespective of borders. It also calls for the murder of all Jews worldwide. Hamas's clear intention was to murder as many Israeli civilians as possible and to use its own civilian population as human shields. But not a word of Hamas's expressly stated intentions appear in the report.

One aspect of the evidence, presented to but not accepted by the Goldstone Mission, was that of Hamas leader Fathi Hammad, who said: "This is why we have formed human shields of the women, the children, the elderly and the mujahideen, in order to challenge the Zionist bombing machine. It is as if we are saying to the Zionist enemy: We desire death while you desire life." These procedural and substantive injustices demonstrate the complete lack of integrity and fairness of the process. It looks like law, but it is not. It is just politics. The Goldstone Mission is a disgrace to the most basic notions of justice, equality and the rule of law. And it is dangerous. Injustice will only lead to more death and destruction. The Talmud says "The world stands on three things: truth, justice and peace." These three values are linked. There can never be peace without justice and truth. The Goldstone Mission is unjust and wanting in truth. It has, therefore, harmed the prospects for peace in the Middle East.

The writer, who has a PhD. in Human Rights Law, is the chief rabbi of South Africa

The U.N.'s Anti-Antiterror Report

By The Wall Street Journal Editorial September 23, 2009

A biased 'finding' on Gaza could also apply to Afghanistan. When it comes to the U.N. and Israel, our thoughts often turn to those East German Olympic judges during the Cold War: Their bias was so transparent it could almost pass without notice. But a new report from a U.N. "fact finding mission" about January's war in the Gaza Strip marks a new low, employing logic and arguments that will be felt wherever the West confronts terrorism.

The Goldstone report—named after principal author, South African jurist Richard Goldstone—is a creature of the U.N.'s Human Rights Council, which in its three short years has condemned Israel more often than the U.N.'s other 191 member states combined, according to Hudson Institute scholar Anne Bayefsky. Mr. Goldstone's report devotes the bulk of its 575 pages to denouncing Israel for what it calls "a deliberately disproportionate attack designed to punish, humiliate and terrorize a civilian population." For this, it adds, Israeli soldiers could be individually liable for criminal prosecution in international courts, while Israel itself is held guilty of "a crime against humanity."

To arrive at these conclusions, Mr. Goldstone and his fellow panelists were forced to make some astonishing claims of fact. For example, they assert that the Gaza police force was a "civilian" agency, though it merged with Hamas's own paramilitary "Executive Force" after Hamas took over Gaza in 2007. The report also says it could not "establish the use of mosques for military purposes or to shield military activity," despite widely available real-time video evidence to the contrary.

The argument seems to be that Hamas can surround its combatants with civilians, and for Israel to strike back is a war crime. The report holds Israel culpable for pursuing a strategy essential in war, which is to break the enemy's will to fight. By this logic, FDR and Churchill could have been charged because the bombing of German industries and cities killed civilians in World War II.

The U.N. also holds Israel accountable as Gaza's "occupying power," never mind that former Prime Minister Ariel Sharon uprooted all of Gaza's Jewish settlements in 2005. As for the "blockade" it accuses Israel of inflicting on the Strip, one wonders

why Egypt, which has also sealed its border with Gaza, doesn't come in for similar condemnation.

The report treats Israel as the aggressor in the conflict, though the Israeli government sat still for more than three years as Hamas transformed Gaza into a terrorist enclave while firing rockets at Israeli towns and cities. At exactly what point, if any, does Mr. Goldstone believe Israel is entitled to self defense? His co-panelist, international law professor Christine Chinkin, offered a clue in January when she wrote that Hamas's rocket attacks on Israeli civilians did not "amount to an armed attack entitling Israel to rely on self defense."

The Goldstone report includes some pro forma condemnation of Hamas's behavior, but Hamas leaders quickly endorsed the findings because they know they have nothing to fear from the International Criminal Court or any other special tribunal. Hamas violates the laws of war as a matter

of daily routine, not least in the murder of Palestinian dissenters. The U.N. report can only hurt a Western nation like Israel that cares about world, or at least American, opinion. If it is taken seriously, the Goldstone logic could (and eventually will) be applied to NATO tactics in Afghanistan, where civilians are also sometimes killed in the course of anti-Taliban operations. This may well be a U.N. goal—the preamble in a process that could lead to, say, Director Leon Panetta in the dock at the Hague.

As for the Obama Administration, it has rightly made it clear that it will not allow the report to reach the level of the Security Council, much less the International Criminal Court. But having now joined the Human Rights Council—a point the President underscored, to applause, in his speech yesterday at the U.N.—it now has an obligation to police that body and call it out on its charades, lest it become complicit.

A Middle East Handshake

By The Washington Post Editorial September 23, 2009

President Obama is learning why Israeli-Palestinian peacemaking isn't easy. The summit President Obama convened Tuesday with Israeli Prime Minister Benjamin Netanyahu and Palestinian President Mahmoud Abbas fell well short of the administration's hopes. Mr. Obama had wanted to announce agreement on the opening of talks on the creation of a Palestinian state, with a deadline of two years. He wanted to outline agreements on how those negotiations would proceed and some of the principles that would underpin them. And he expected to reveal a series of opening confidence-building measures by the two sides, including a freeze on Israeli settlement construction and steps toward normalization by several Arab states.

What Mr. Obama oversaw, instead, was little more than a photo opportunity with the two leaders -- who continue to disagree with each other and with the Obama administration over the terms of the talks. Officials said they still believe they can achieve the administration's aims in the coming weeks. But the gap between their initial hopes for the U.N. meeting and what occurred is revealing about the difficulties Mr. Obama's diplomacy is encountering -- and the miscalculations the president and his team have made. Mr. Obama and his aides assumed that Israelis and Arab governments around the region would welcome an aggressive effort by the new U.S. president to broker an Israeli-Palestinian peace. As a practical matter, that hasn't proved true. Mr. Netanyahu's right-wing government would prefer to bolster Mr. Abbas's government economically before beginning final peace talks; Mr. Abbas himself has been preoccupied with consolidating his own authority and gaining the upper hand over the rival

Hamas movement. Their rhetoric aside, leading Arab states such as Saudi Arabia appear -- like Israel -- much more concerned with how the Obama administration will handle the threat of Iran.

The administration also concluded, wrongly, that obtaining an unconditional Israeli settlement freeze was an essential first step. In fact settlements are no longer a strategic obstacle to peace; as a practical matter, most of the construction is in areas that will not be part of a Palestinian state. The administration's inflexible stance, unwisely spelled out in public by Secretary of State Hillary Rodham Clinton, led to an unwinnable confrontation with Mr. Netanyahu, turned Israeli public opinion against Mr. Obama and prompted Palestinians to harden their own position. The compromise now being discussed between Washington and Jerusalem will differ little from past deals. All this is not to say that Mr. Obama should not keep trying to lay the groundwork for a Middle East peace. There are some good ideas for how Mr. Netanyahu and Mr. Abbas can begin constructive negotiations: One is to focus early on the final border between Israel and a Palestinian state, which would have the benefit of eliminating the settlement issue. Officials say the president pressed the Israeli and Palestinian leaders hard to move forward during bilateral meetings Tuesday. That's good, but Mr. Obama must also do more to convince average Israelis as well as Arab leaders that his diplomacy is worth investing in. We're told the president reminded Mr. Netanyahu and Mr. Abbas Tuesday of an old diplomatic verity: that the United States cannot want peace more than the parties themselves. That's a reality that this president, like a few before him, will have to live by.