

## **Sinking the Goldstone Report**

By Nadia Hijab

Timing is everything.

On Monday, the United States assumed its seat on the United Nations Human Rights Council -- the one the Bush administration had cold-shouldered, then boycotted. The U.S. representative declared in Obamaesque tones, "Make no mistake: The United States will not look the other way in the face of serious human rights abuses."

And on Tuesday, Justice Richard Goldstone and his team submitted the report of their fact-finding mission into violations of international human rights and humanitarian law during Israel's December-January offensive against Gaza -- a report requested by the Council itself.

The Goldstone Report could derail the Obama administration's hopes of a two-state solution. Unless, that is, someone can sink it. An unlikely set of allies may come together to do so: Israel, given the findings against it of war crimes and possible crimes against humanity; the United States, to defend Israel as well as its own plans for the Middle East; Egypt; and the Palestinian Authority.

It would be quite hard to sink the Goldstone Report. One reason is the team's impeccable credentials. Goldstone, a South African Jew with close ties to Israel, served as Prosecutor of the International Criminal Tribunals for the former Yugoslavia and Rwanda. Another member, Hina Jilani, participated in the commission of inquiry on Darfur. Israel and its supporters always complain that no one looks at other countries' abuses. Well, this team has.

Moreover, the Goldstone Report is painstakingly even-handed. It finds evidence of war crimes and possibly crimes against humanity not just against Israel but also against Palestinian armed groups. And it criticizes both Hamas and the Palestinian Authority for human rights violations in their crackdowns on each other's members.

In addition, the Goldstone team provides almost no room for anyone to wriggle out of its recommendations. It requests the Human Rights Council to submit its report to the Security Council, where the United States has a veto, as well as to the U.N. General Assembly, where it does not.

It calls on Israel as well as the authorities in Gaza to launch independent and credible investigations into the violations. And to make sure they do, it asks that an independent team of experts be established to review progress. If the process is not credible -- as measured against international law standards -- then the Gaza situation should be referred to the International Criminal Court at the end of six months. It also upholds universal jurisdiction, calling on other states to undertake criminal investigations in their national courts so as to prevent impunity.

The Report politely expresses doubt that Israel will make reparations to the Palestinians of Gaza for the extensive damage inflicted on them and their infrastructure -- so it recommends that the General Assembly establish an escrow account into which Israel would pay.

The Obama administration could send a strong signal by voting to submit the report to the Security Council and the General Assembly, or even by abstaining. But, despite its fine words on Monday, it is more likely to want to bury it. Otherwise, attention will focus on prosecuting an Israel it's trying to nudge to the negotiating table. The problem it will face is that Third World countries dominate both the Human Rights Council and General Assembly and they traditionally support Palestinian rights. So it will seek an alliance with Egypt and the Palestinian Authority. If they indicate they do not want the report to go forward, the rest of the Third World would find it hard to go over their heads.

But could Egypt and the Palestinian Authority possibly want to stop accountability for war crimes in Gaza? Hard to believe, but they may have already done so earlier this year when Father Miguel d'Escoto Brockmann, the General Assembly's Nicaraguan president, tried to get the international community to stop the slaughter.

Father Miguel has named no names, but in his speech at the end of his one-year term this week, he left little doubt about what happened. He said he had tried to persuade "those who should have been most closely involved" to convene the General Assembly to help the Palestinians under fire. But "all I received was advice to give the process more time... we should do nothing that could endanger the success that was always just beyond our reach."

And he went on to make a very serious accusation against "those who should supposedly have been most interested" yet "denied their support." He said he hoped "that they were right and that I was wrong. Otherwise, we face an ugly situation of constant complicity with the aggression against the rights of the noble and long-suffering Palestinian people."

If this complicity repeats itself at the Human Rights Council, the Goldstone Report will be sunk. The power of the state system (and a putative statelet) will have trumped the principles of international law and human rights -- unless human rights advocates act to make sure the right thing gets done.

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