



Report #50

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The UN's latest Anti-Israel Project: The War Crimes Charge

Summary

Having experienced years of rocket attacks from Hamas and Islamic Jihad, the terrorist groups that control the Gaza area, Israel, acting in self-defense, initiated Operation Protective Edge on July 8, 2014. This operation was designed to neutralize the threat to the people of Israel posed by the thousands of rockets in possession of the terrorists, supplied to them by Iran. Only as the operation proceeded, did Israel become fully aware of the threat posed by the extensive network of Hamas-built-tunnels that reached beneath the border lines into Israeli territory. The goal of the operation was to reduce the rocket reserves significantly and to eliminate the threat posed by the tunnels.

It did not take long for the United Nations' anti-Israel mechanism to get into high gear. On July 23, 2014 the UN Human Rights Council met in a special session. Not spending a great deal of time in deliberations the Council proceeded on the same day to pronounce Israel guilty of serious human rights violations and to establish a commission whose task it will be to collect the evidence to support the Council's pronouncement of Israeli guilt and to name the specific individuals responsible for the alleged violations. The commission is to submit its report to the Human Rights Council at its first session in 2015.

The resolution was adopted by a vote of 29 to 1, with 17 members abstaining. The United States cast the single "no" vote. Abstaining were all European states, East and West, except for Russia, which voted "yes." Also abstaining were two Asian states: Japan and South Korea, and four African states: Benin, Botswana, Burkina Faso, and Gabon. *The only group to vote unanimously against Israel was the Latin American Group, including Costa Rica and Mexico.*

Having gotten the Council to condemn Israel, the anti-Israel forces at the UN arranged for a so-called "informal" session of the UN General Assembly on August 6. That meeting was devoted to denunciations of Israel by UN staff members and a large number of UN representatives.

Then, on August 11, the commission called for by the July 23 resolution was established. With the cynicism characteristic of the UN's treatment of Israel, the chairman of this latest anti-Israel commission is once again a person of Jewish ancestry, William Schabas, a law professor at Middlesex University in London, who has a record of virulently ant-Israel statements. He has in the past called for the indictment of Prime Minister Binyamin Netanyahu and former President Shimon Peres in proceedings he proposed be initiated before the International Criminal Court.

This Report provides details only on the UN Human Rights Council resolution of July 23, 2014. Our next Report will cover the General Assembly session of August 6, 2014.

The UN Human Rights Council's Resolution of July 23, 2014

The four-page resolution adopted by the UN Human Rights Council on July 23 focuses on the Gaza conflict and calls for an investigation of Israeli practices alleged to constitute violations of human rights law **it makes no mentions of Hamas**. Although it provides for the creation of a commission that would carry on the investigation, the resolution has already declared Israel guilty. The resolution contains the following introductory findings:

- (a) “*Noting* the systematic failure by **Israel** to carry out genuine investigations in an impartial, independent, prompt and effective way, as required by international law, on violence and offences carried out against Palestinians by the occupying forces” [9th introductory paragraph];
- (b) “*Emphasizing* the obligations of **Israel** ... to ensure the welfare and safety of the Palestinian civilian population under its occupation in the West Bank, including East Jerusalem, and in the Gaza Strip, and noting Israel’s wilful abdication and rejection of its obligations in this regard” [10th introductory paragraph];
- (c) “*Deploing* the massive **Israeli** military operations in the Occupied Palestinian Territory, including East Jerusalem, since 13 June 2014, which have involved disproportionate and indiscriminate attacks and resulted in grave violations of the human rights of the Palestinian civilian population, including through the most recent **Israeli** military assault on the occupied Gaza Strip, the latest in a series of military aggressions by **Israel**, and actions of mass closures, mass arrests, and the killing of civilians in the occupied West Bank [12th introductory paragraph].

The resolution then moves on to its operative paragraphs:

“2. *Condemns in the strongest terms* the widespread, systematic and gross violations of international human rights and fundamental freedoms arising from the military operations carried out in the Occupied Palestinian Territory since 13 June 2014, particularly the latest **Israel** military assault in the occupied Gaza Strip, by air, land and sea, which has involved disproportionate and indiscriminate attacks, including aerial bombardment of civilian areas, including the targeting of medical and humanitarian personnel, that may amount to international crimes, directly resulting in the killing of more than 500 Palestinians, most of them civilians and more than 100 of whom are children, the injury of more than 3,500 people and the wanton destruction of homes, vital infrastructure and public properties;”...

“4. *Calls for* an immediate cessation of **Israeli** military assaults throughout the Occupied Palestinian Territory, including East Jerusalem, and an end to attacks against all civilians, including **Israeli** civilians;”...

“6. *Demands* that **Israel**, the occupying Power, immediately and fully end its illegal closure of the occupied Gaza Strip, which in itself amounts to collective punishment of the Palestinian civilian population, including through the immediate, sustained and unconditional opening of the crossings for the flow of humanitarian aid, commercial goods and persons to and from the Gaza Strip, in compliance with its obligations under international humanitarian law;”...

Having thus found Israel guilty of a series of violations of international law, the Council then proceeded to establish a commission which is to (a) collect the evidence to support the pronouncements of Israeli guilt, and (b) identify the persons that committed these alleged crimes. Here is the wording of that key provision of the resolution:

13. *Decides* to urgently dispatch an independent, international commission of inquiry, to be appointed by the President of the Human Rights Council, to investigate all violations of international humanitarian law and international human rights law in the Occupied Palestinian Territory, including East Jerusalem, particularly in the occupied Gaza Strip, in the context of the military operations conducted since 13 June 2014, whether before, during or after, to establish the facts and circumstances of such violations and of the crimes perpetrated and to identify those responsible, to make recommendations, in particular on accountability measures, all with a view to avoiding and ending impunity and ensuring that those responsible are held accountable, and on ways and means to protect civilians against any further assaults, and to report to the Council at its twenty-eighth session;

Concluding Observations

We are dealing with a setting in which a terrorist group, Hamas, took control of the Gaza Strip in 2007 and has pursued acts of terrorism against Israel ever since. After years of sustained rocket attacks from Gaza against Israel, particularly Southern Israel, the Israeli Defense Forces entered the Gaza Strip in a self-defense operation.

The UN Human Rights Council, which had for years ignored the continuing Hamas attacks against Israel, convened 15 days after the start of the Israeli operation, spent a few hours listening to speeches attacking Israel and without further investigation adopted a pre-cooked resolution that found Israel guilty of a series of war crimes. The Council then arranged for the creation of a commission that was assigned the task of collecting the evidence that would retroactively prove that the Council was right in its guilty verdict against Israel. The commission is also called upon to come up with the names of Israeli officials against whom war crimes charges are to be brought.

Given the latest developments on the international scene, we cannot be sure that the Gaza issue will be central to the activities of the UN General Assembly session that starts in September. **There is no doubt, however, that the anti-Israel forces at the UN will be interested in advancing the War Crimes argument. It is worth noting that such an operation will be paid for out of the UN budget, with 22% of the cost borne by U.S. taxpayers.**

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