



Gaza, Einstein, and the UN

Lori Allen

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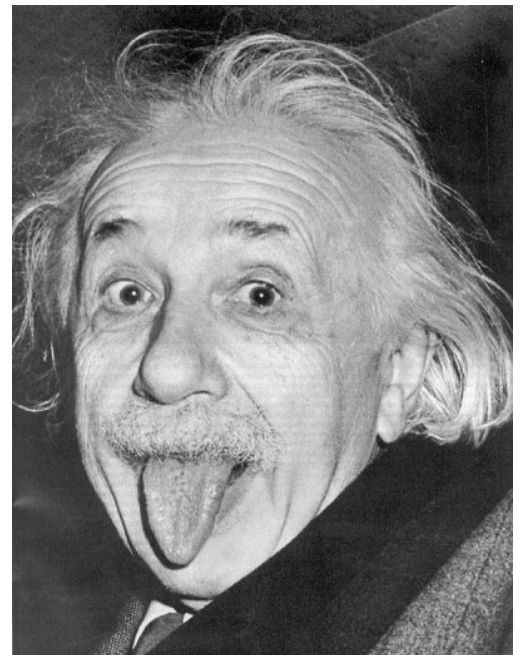


Today we continue our discussion on Gaza with a guest post by [Lori Allen](#), previously published at [Jadaliyya](#), and reposted here with her kind permission. In her text Allen discusses the recent resolution passed by the UN Human Rights Council to found a commission to examine violations of international humanitarian and human rights law in the Occupied Palestinian Territory. Yes, we've been here before, as she notes - are we thus looking the bureaucratic equivalent of Albert Einstein's definition of insanity? And what kind of 'impact' and 'outcome' could or should we expect from (yet) another new UN commission?

By [Lori Allen](#)



Many believe that Albert Einstein offered the [witty definition](#) of insanity as “doing the same thing over and over again and expecting different results.” Apparently this is a misattribution, but it doesn’t make Einstein any less smart, or the quote any less insightful. I was reminded of it when I read the news that the United Nations Human Rights Council passed a resolution establishing an investigative commission to look into violations of international humanitarian and human rights law in the Occupied Palestinian Territory, spurred by Israel’s latest attacks on Gaza. [The resolution](#) says that the purpose of the investigation is to “end impunity, ensure those responsible are held accountable and to assist in the protection of civilians.”



We have been here before. In 2009, the UN launched The Goldstone Commission to investigate Israel’s 23-day assault on Hamas in Gaza (Israel’s so-called “Operation Cast Lead”). This UN Commission concluded that both Israel and Hamas had possibly committed war crimes during the conflict. It was one in a long line of international fact-finding commissions that have explored, reported upon, and recommended solutions for this conflict.

Investigations sent by the American government at the end of WWI, by the British government when Palestine was under its mandatory control in the League of Nations, and tens of United Nations commissions since then have all condemned the state of play between Israel and the Palestinians. And we see the results today. As of 6 August, more than 1,875 Palestinians have been killed, the vast majority civilians, and 67 in Israel are dead, the vast majority soldiers.

The Goldstone Report, which recorded details of Israel’s destruction of parts of



Gaza and more than 1,300 Gazans four years ago, confirmed that Israel used disproportionate force, and much of this damage occurred without any conceivable military necessity.



Instead of ending impunity, instead of denting the occupation, that report just spawned further UN activity.

In November 2009, there was yet another resolution (A/64/L.11), this one calling upon the Government of Israel and the Palestinian side to undertake independent, credible investigations “into the serious violations of international humanitarian and international human rights law reported by the Fact-Finding Mission, towards ensuring accountability and justice.” A delegate from Bangladesh cautioned that [“serious follow-up”](#) was needed. The calling and urging were undertaken with the goal of ensuring accountability and justice. The “serious follow-up” came in 2010 after Resolution A/HRC/RES/13/9, when [the Human Rights Council established another committee](#) to evaluate Israeli and Palestinian investigations into



violations of international humanitarian and human rights law in response to the Goldstone Report. Similar to the reception of the Goldstone Commission, [the follow-up committee](#) was met with extensive cooperation from Palestinian officials, and “never received any official responses to its efforts to reach out to the Government of Israel.” Just as the Goldstone Report roused tsunamis of debate about its findings, about the impartiality and expertise of its investigators, so did the follow-up committee spark small bonfires, producing similar smoke and mirrors, parallel kinds of arguments. It gave the Zionist propaganda organization, UN Watch, plenty of work, and let the Hamas-led government in Gaza engage in diplo-speak that welcomed the Goldstone Commission’s report and expressed hope in seeing results from the investigation’s recommendations on the ground. Since the Goldstone Report issued its findings and recommendations, the Israeli government has continued its military occupation and continued to commit all the human rights violations that go along with it (torture, detention of Palestinians without trial, child abuse, home demolitions, settlement building, etc.). Israel [rampaged through Gaza](#), while [the United States offers](#) the occupying army its stock of grenades and mortar rounds to pursue its bombardment. Probably some of the £7.9 billion (\$12.1 billion) in [British military exports to Israel](#) are also being deployed to commit further war crimes.



And here we are again with [A/HRC/S-21/1](#). Another resolution, responding to the same kind of horrific slaughter of innocents in Gaza, same fact-finding purpose, different UN document code.

This resolution promises to “establish the facts and circumstances of such violations [of international humanitarian law and international human rights law]



and of crimes perpetrated and to identify those responsible, to make recommendations, in particular on accountability measures, all with a view to avoiding and ending impunity.” It, too, seeks to ensure “that those responsible are held accountable, and on ways and means to protect civilians against any further assaults.” [Amnesty International](#) welcomed this great proposal, but reminded us that “In order to be effective the commission of inquiry must be thorough, independent and impartial, and look into violations by any party to the conflict.” Effective at what, exactly? Producing another report that will give NGO Watch something to gripe about? Making work for the [Government of Israel’s legal team](#)?



Although under the principle of universal jurisdiction, the results of such a UN investigative commission could be used as a spur to prosecuting crimes under international law in national courts, we all know how likely that is. The last time this was attempted, when survivors of the 1982 massacre in Sabra and Shatila



sought justice, Belgium’s highest court dismissed the war crimes complaints in the end, bowing to pressure from the United States. The ongoing unwillingness of the UN Security Council to respond meaningfully to violations in Israel and the Occupied Palestinian Territories or hold perpetrators accountable, is largely due to opposition from the United States. But the United States can’t keep the UN from dispatching yet another investigation.

Like clicking the “Like” button on Facebook, these commissions represent impotent expressions of agreement and solidarity. Einstein got it right in 1947, responding to the [Anglo-American Commission](#) that reported on the Palestine situation after WWII: “I think commissions like this are like a smoke-screen to show good will.”



He also got it right when he said to the jury of venerable investigators, six Americans and six British: “The most important thing for international relations is confidence in international rule.” With the Israeli firestorm raining down on Gaza while the protesting world looks on, shouting but ineffectual, there can be little



such confidence. International law has offered no protection to defenseless Palestinians. Most people, whether American politicians or people of good conscience, do not seem to know that the [UN has recognized](#) that the occupied have the [right to resist](#). International rule has not enforced its rules in Israel.

Israel has already organized a [“diplomatic and public relations offensive”](#) to defend itself in front of the Human Rights Council investigation. A sane person would be excused for thinking that [200 murdered children](#) would be impossible to defend. If only this world was sane.



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