

# Gaza War Crimes: Israeli Government Contradicts its Own “Self-Defense” Argument

Information on official website tacitly acknowledges war crimes in Gaza

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Global Research, October 14, 2009

14 October 2009

Region: [Middle East & North Africa](#)

Theme: [Crimes against Humanity](#), [Religion](#)

Amazingly, the Israeli Government’s attack on the [Goldstone Report](#) and its longstanding claim that it was acting in self-defense against Hamas rocket fire is flatly contradicted by evidence provided *by the Israeli government itself* on its own web site. The web site dramatically shows that the Israeli government had already effectively stopped rocket fire long before Israeli forces launched their initial attack on Gaza on November 4, 2008.

Yet, Israeli government spokesmen endlessly repeat the self-defense claim. In an [article in the New Republic](#) on 6 October, 2009, for example, Israel’s ambassador to the United States, Michael B. Oren, stated that Israel’s military action in Gaza was an operation launched in response to the firing of more than 7,000 Hamas missiles at Israeli towns since Israel’s 2005 withdrawal from the Strip. He then states, “The Goldstone Report goes further than Ahmadinejad and the Holocaust deniers by stripping the Jews not only of the ability and the need but of the right to defend themselves.”

After years of such abject failure of military methods Israel finally hit upon a technique that successfully ended Hamas rocket fire on June 19, 2008. Israel accomplished this feat without dropping a single bomb on Gaza and without sending a single soldier into Gaza: [Israel announced an Egyptian brokered six month ceasefire](#) that began on June 19, 2008. According to the Israeli Ministry of Foreign Affairs website that ceasefire was so successful that it brought “calm” to towns near Gaza. In an article titled, [“One Month of Calm Along the Israel-Gaza Border,”](#) posted on July 27, 2008, the Israeli Ministry of Foreign Affairs (MFA) website states:

More than one month has passed since the calm agreement went into effect, with only sporadic violations by the terrorist organizations. Signs of normal life can be seen in towns on both sides of the Israel-Gaza Strip border.

The same site goes on to quote extensively from a report issued by a pro-Israeli government research organization, the Intelligence and Terrorism Information Center at the Israel Intelligence Heritage & Commemoration Center (IICC):

During its first month, the lull arrangement resulted in a significant drop in rocket and mortar fire at Israel. A relative calm has settled over Sderot and Israeli population centers near the Gaza Strip, occasionally broken by rockets and mortar bombs fired by terrorist organizations which oppose the lull (mostly local Fatah networks, with the Palestinian Islamic Jihad violating the lull only on one occasion).

The web site includes the following graph demonstrating the success of the lull arrangement.

### **Rocket and mortar fire during the lull compared to the months preceding it**



The graph reads from right to left and shows an average of 413 rockets and mortars fired each month from January 1 to June 18. The number fired declined to 8 for the rest of June and 12 for almost all of July.

The IICC report continues:

The cessation of the intensive fighting which had been going on before the lull has allowed the residents of Sderot and of western Negev population centers, as well as Gaza Strip residents, to return to normal life.

The IICC report then goes on to state,

Publicly, Hamas leaders have stated time and again that the lull is a Palestinian national interest. On several occasions, Hamas members have arrested Fatah operatives who were involved in firing at Israel and confiscated their arms.

This authoritative report on the Israeli Ministry of Foreign Affairs website demonstrates Israeli government satisfaction after only 5 weeks that its ceasefire had substantially ended Hamas rocket fire—and more than that: Hamas was working to eliminate rocket fire from other groups, especially Fatah, the main group running the Palestinian Authority in Ramallah.

The rocket and mortar fire from such dissident groups in the Gaza strip declined further over the next few months—down to only 1 rocket and 3 mortars in September and 1 rocket and 1 mortar in

October, as shown by the graph on page 10 of the December 2008 [“Six Months of the Lull Arrangement”](#) report from the IICC and in an independent report [The War between Israel and Hamas, Facts & Data on Rocket Firing before, during & after the Cease Fire](#)

### **Rocket and mortar fire from Gaza into Israel January 1 through December 16, 2008**

## WHY ROCKET **FIRE RESUMED ON NOVEMBER 5**

Just as rocket fire steadily dropped to its lowest point in October, the Israeli Government sent soldiers into Gaza and launched an airstrike on Gaza on November 4, killing 6 Hamas members, as described in the six month IICC report and in a *New York Times* article, [“Israeli Strike is First in Gaza Since Start of Cease Fire,”](#) by Isabel Kershner, 4 November 2008. According to the Times article Israel claimed that it attacked to destroy a tunnel Hamas was digging some 270 yards inside Gaza.

November 4 was a day the world’s attention was focused on the presidential elections in the US and the historic victory by Barack Obama. November 4 was a day Israel’s violation of the ceasefire would very likely be crowded out of front page coverage.

After Israel’s November 4 attack Hamas responded with a barrage of rocket and mortar fire. According to the six month IICC report 46 rockets and 16 mortars were launched from Gaza on November 5. During the rest of November and December Israeli forces invaded Gaza nine more times, about once a week, according to the [weekly reports of the Palestine Center for Human Rights](#). Israel’s incursions were each accompanied by airstrikes on Gaza, killing dozens of residents. During that same period Hamas and other Palestinian groups launched a total of 193 rockets and mortars from Gaza in November and 98 in the first two weeks of December according to the IICC report, an average of 194 rockets per month. No Israelis were killed during this period.

**Israeli Defense Minister Barak admits Hamas rockets are result of Israeli**

## operations

Two weeks after Israel's first strike that broke the ceasefire, the largest circulation daily Israeli newspaper reported in its web edition:

Defense Minister Ehud Barak addressed the current situation in the region, saying "The recent waves of rocket attacks are a result of our operations, which have resulted in the killing of 20 Hamas gunmen" ([Ynet News November 20, 2008](#)).

Defense Minister Ehud Barak is a former Israeli Prime Minister. Thus, one of the highest officials of the Israeli government admitted that its military operations were responsible for the rocket fire. This admission is consistent with the facts about the Israeli government's lethal attack that broke the otherwise successful cease fire sixteen days earlier, on November 4, and its continuing military operations after that date. This means that the statement quoted above from Israel's ambassador to the UN that Israel was acting in self-defense is untrue.

It wasn't just the Israeli ambassador being easy with the facts. In his [speech at the United Nations on 24 September 2009, Israeli Prime Minister Netanyahu](#) referred to the Goldstone report, saying:

The jury's still out on the United Nations and recent signs are not encouraging. Rather than condemning the terrorists and their Iranian patrons, some here in the United Nations have condemned their victims. This is exactly what a recent U.N. report on Gaza did, falsely equating terrorists with those they targeted.

Netanyahu further said:

The same UN that cheered Israel as it left Gaza and promised to back our right of self-defense now accuses us Bmy people, my country - of war crimes? And for what? For acting responsibly in self-defense. What a travesty! Israel justly defended itself against terror. This biased and unjust report is a clear-cut test for all governments. Will you stand with Israel or will you stand with the terrorists?

Contrary to Netanyahu's assertions, the Goldstone Report did not challenge Israel's right to defend itself. In fact, as Professor Richard Falk points out in a 23 September 2009 article, ["The Goldstone Report and the Battle for Legitimacy,"](#)

the [Goldstone] report takes for granted the dubious proposition that Israel was entitled to act against Gaza in self-defense, thereby excluding inquiry into whether crimes against the peace in the form of aggression had taken place by the launching of the attack. In this respect, although the report takes notice of the temporary ceasefire that had cut the rocket fire directed at Israel practically to zero in the months preceding the attacks, it seems to avoid drawing any legal conclusions as to the bearing of this context in which the Gaza war was initiated. The report also ignores Hamas' repeated efforts to extend the ceasefire indefinitely provided Israel lifted its unlawful blockade of Gaza. Israel disregarded this seemingly available diplomatic alternative to war to achieve security on its borders. Recourse to war, even if the facts were to justify self-defense, is according to international law, a last resort. By ignoring Israel's initiation of a one-sided war the Goldstone report implicitly accepts the dubious central premise of Operation Cast Lead, and avoids making a finding of aggression.

Thus, Israeli government officials have twice incorrectly used the self-defense argument. First, as their central justification for their military operations—in contradiction to the evidence the Israeli government itself provides on its own web site showing that Israel had a successful ceasefire in place and initiated a lethal attack anyway. And now self-defense is their central line of attack on the Goldstone Report—even though that report takes Israel=s self-defense argument for granted.

### **Rocket Fire *Increased* when Israel Escalated its Attack**

Rather than Adefending@ Israel from the rockets, the Israeli military operations that began on November 4 actually resulted in an *increase* in rocket fire. When Israeli officials vastly escalated their attack on December 27 the number of rockets fired from Gaza vastly escalated too. According to the [Israeli Government Ministry of Foreign Affairs website](#), 571 rockets and 205 mortar shells landed on Israeli territory during the period of Israel=s assault from December 27 to January 18, a rate of 1046 per month. It was during this period that three Israelis were killed by rocket fire.

Thus, during the 23 days of Israel=s AOperation Cast Lead,@ rockets and mortars were fired from Gaza at more than twice the rate they were fired during the peak period in 2008 and five hundred times the rate they were fired during October, just before Israel=s first attack. The new cease fire on January 18 again sharply reduced the rocket and mortar fire, to an average of 21 per month during the 9 months since the assault ended, according to [data provided by the IICC](#), while Israeli forces continued bombing tunnels and other targets and continued its illegal blockade of Gaza.

### **Conclusion**

Based on facts from Israel=s own web site, the assertion by Israeli government officials that Israel was acting in furtherance of its right of self-defense or that Israel was responding to rocket fire when it launched its initial attack on Gaza is flawed. Israel had an effective and satisfactory ceasefire in place and launched a lethal attack on November 4 anyway, provoking rocket fire. The facts also show that Israeli military action not only did not work to stop rockets, it actually increased the number of rockets fired. The facts also show that when Israel stopped military action and observed a cease fire with Hamas in June, rocket fire from Hamas stopped and Hamas policed the other groups to get them to stop too. And perhaps most damaging of all to Israel=s self-defense claim is the admission by Defense Minister Ehud Barak on November 20, 2008 that Hamas rocket fire was Aa result of our operations.

As Israeli government officials actually do not have a credible self-defense argument for their attack on Gaza, in addition to liability for war crimes and crimes against humanity described in the Goldstone Report, Israeli military and political officials should also be held liable for the crime of aggression for initiating the attack on November 4 and then escalating on December 27.

*James Marc Leas is a Vermont patent attorney and was a member of the [National Lawyers Guild delegation to Gaza](#) in February 2009. This article includes information NLG President Marjorie Cohn sent in a letter to US Secretary of State Hillary Clinton on May 28, 2009.*

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