



Intelligence and Terrorism Information Center

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As part of the response to the Goldstone Report that defines the rocket attacks as a “crime of war”, Hamas’s judicial system brings up claims legitimizing the rocket attacks at Israel and rejecting the legitimacy of the State of Israel

The screenshot shows the website of the Izz al-Din al-Qassam Brigades. At the top, there is a navigation bar with 'ENGLISH' and 'الرئيسية' (Home) in Arabic. Below this is a search bar and a menu with various categories like 'أخبار' (News), 'مقالات' (Articles), etc. The main content area features a headline in Arabic: 'الاحتلال يحفل بحصة مؤنقحة ويحتجز مسلمين بالخليل' (The occupation celebrates a share and detains Muslims in Hebron). Below the headline is a photo of a man, identified as 'القاضي: ضياء الدين المدحون' (Judge: Diya al-Din al-Madhoun). The text of the interview discusses the legitimacy of the resistance against the occupation, stating that the occupation is a crime against humanity and that the resistance is a legitimate response. The website also has a sidebar with a 'مواضيع يبرزة' (Highlighted Topics) section and a 'استفتاء الزهراء' (Zahra's Poll) section.

The cover page of an interview granted by Diya al-Din al-Madhoun, the head of the Hamas documentation committee, to the Izz al-Din al-Qassam Brigades website, in response to the Goldstone Report (January 27, 2009)

Overview

1. **Muhammad Faraj al-Ghoul, the justice minister of the Hamas administration** in the Gaza Strip, recently announced that Hamas would “very soon” submit its response to the Goldstone Report, a **52-page document** containing the findings of a “committee of experts” established by Hamas for that purpose. At the same time, the Palestinian Authority submitted its preliminary response to the Goldstone Report through **Riyad Mansour**, its representative in the UN.

2. **Diya al-Din al-Madhoun**, a judge in the Hamas administration who heads Hamas’s documentation committee (*Al-Tawthiq*), presented Hamas’s main line of argumentation several days ago. The main arguments are as follows (see Appendix for details):

a. **Hamas targeted the military targets of the “occupation”, rather than concentrations of civilian population.** The rockets of the “resistance” are **not accurate, and may slightly miss their target “in spite of the effort to avoid causing harm to civilians”.** The few civilian casualties of the rocket attacks prove that civilians were not the target.

b. **Most of the areas hit by rockets are not part of the State of Israel to begin with, and it was the “enemy state” (i.e., Israel) that perpetrated a crime of war by relocating civilians to combat zones and settling them in territory that did not belong to them.**

c. **The Goldstone Report condemned the “Zionist occupation” and absolved the “resistance”** of the claims of using civilians as human shields. The Goldstone Report’s claims that the “resistance” perpetrated a crime of war by targeting civilians are baseless. Those claims will be refuted by the principles of international law, which grant occupied peoples a legitimate right to resist an occupying enemy.

3. Those claims are incorrect. **The vast majority of the rockets were quite clearly fired at large territorial targets, such as cities and other population centers, to kill, scare, and demoralize the population, making no distinction** between military and civilian targets. **Even the Goldstone Report acknowledges that the attacks were indiscriminate and aimed against civilians to cause panic and interrupt their daily routines.**

4. **Following are some major characteristics of the rocket attacks during Operation Cast Lead:**

a. About **650 rockets** were fired on Israel during the operation, of which about **570** landed in Israeli territory. Furthermore, 205 mortar shells were fired as well. The artillery used in the attacks included 132 improved 122-mm rockets for ranges of up to 40 km, **which put nearly one million Israeli civilians within the rockets' range** (including in such large municipal centers in southern Israel, such as Beersheba, Ashdod, Kiryat Gat, and Gedera).

b. **The rockets were fired on large Israeli population centers with the intention of hitting as much civilians as possible.** For example, Israel had intelligence information on plans to fire on **schools** in Ashdod to disrupt studies, even though the rockets used by Hamas are imprecise and are difficult to aim specifically at schools. **In a speech given during Operation Cast Lead, senior Hamas figure Mahmoud al-Zahar praised the Izz al-Din al-Qassam Brigades and said that following the IDF's ground assault Hamas was within its right to target hospitals, ambulances, synagogues, and to kill both women and men** (Al-Aqsa TV, January 5, 2009). Other spokesmen and media of Hamas (and other terrorist organizations) have said on several occasions that the rocket attacks were aimed at Israeli population centers.

c. The Goldstone Report did note the relatively small number of casualties (three civilians and one soldier) suffered by Israel as a result of the rocket and mortar attacks into its territory. **The relatively small number of fatalities and the fact that no mass casualties were inflicted on school students were the result of several factors: the technical limitations of the rockets, the terrorists' difficulties in firing them, and advance warning measures** which allowed the civilian population in Israel to take cover well in advance. Furthermore, on one hand **Hamas used civilians as human shields, which increased civilian casualties. On the other hand, Israel prepared its home front well in advance, which led to a small number of civilian casualties** (for example, no studies were held in southern Israel, mass events were cancelled, and people were asked to stay indoors). **If it was not for such preparations, there is no doubt that the number of casualties would have been much higher, considering that rockets hit or landed near schools, kindergartens, residential buildings, and public facilities in Sderot, Beersheba, Ashdod, and Ashkelon.**



Home front command soldiers on the scene of a rocket hit near the kindergarten in Ashdod (courtesy of NRG, photo by Eddie Israel, January 11, 2009)



Damage caused to a kindergarten in Ashdod as a result of a rocket hit (courtesy of ZAKA spokesman, January 6, 2009, photo by Yossi Landau)



Metal pellets from a Grad rocket that hit a school in Beersheba (Yaron Brenner, ynet, December 31, 2008)

d. During Operation Cast Lead, Hamas boasted of its ability to increase the rockets' range to Tel-Aviv. Al-Aqsa TV showed a clip with the names of Israeli population centers hit by rockets, implying that the next target of the rocket launchers was going to be **Tel-Aviv**. The name of Tel-Aviv appears near a large crosshair, with text on the bottom of the screen that reads: "All of our options are open" (Al-Aqsa TV, January 10). That video clip reflects Hamas's attempt, with Iran's assistance, to obtain rockets whose range would cover more Israeli cities, mainly Tel-Aviv.



Frame from a video clip showed during Operation Cast Lead, in which Hamas threatens to hit Tel-Aviv as well (Al-Aqsa TV, January 10, 2009)

5. The head of the Hamas documentation committee claims once again that the **Goldstone Report exonerates Hamas of the charge of using civilians as human shields**. That is in fact one of the Achilles' heels of the Report, **and is being thoroughly exploited by the Hamas propaganda**. A great deal of hard evidence held by Israel proves that **Hamas has formulated a combat strategy based on the use of civilians as human shields, which includes various tactics implemented in Operation Cast Lead**: forcing civilians to stay in neighborhoods where IDF forces are operating; plain-clothed terrorists blending into civilian residential areas; using groups of children to escape from combat zones; making extensive use of residential buildings and public facilities (such as hospitals, schools, and mosques) for military purposes; firing rockets from the vicinity of residential buildings and public institutions, and so forth.

6. A major part of the Palestinians' response to the Goldstone Report is **the battle for the legitimacy of Palestinian representation** being waged between Hamas and the Palestinian Authority, a battle which has come to include the Goldstone Report as well. Ever since the Palestinians started dealing with the Goldstone Report, Hamas is the one that **has been taking the initiative**, making varied use of the Goldstone Report, **presenting a façade of holding its own "independent" investigation by a "committee of experts"**. There are several reasons for that, as far as Hamas is concerned: its interest in **denouncing Israel** and putting its leaders and commanders to trial by means of the report; its desire to break through the barrier of its international isolation (mainly on the part of Western countries); and its striving to establish itself as the legitimate representative of the Palestinians and undermine the legitimacy of the Palestinian Authority.

7. **The Palestinian Authority, on its part, which seeks to emphasize the fact that it (rather than Hamas) is the representative of the Palestinians, follows the lead of Hamas** and has recently (after a considerable delay) established its own committee to investigate the Goldstone Report recommendations. According to an AFP report from Ramallah, on January 25 Abu Mazen issued an order to establish a special committee to implement the recommendations imposed by the Goldstone Report on the Palestinian Authority with regard to rocket attacks on Israel during Operation Cast Lead. The committee consists of five members, including jurists and academics, and it is headed by Issa Abu Sharar.

Appendix

Statements made by senior officials in the Hamas judicial system regarding the Goldstone Report

Interview granted by Diya al-Din al-Madhoun

1. Diya al-Din al-Madhoun, a Hamas administration judge and chair of Hamas's documentation committee (*Al-Tawthiq*),¹ has recently granted an interview in which he spoke about Hamas's position regarding the Goldstone Report. Following are excerpts from answers he gave to [obviously scripted] questions asked by the interviewer, **which appeared on the Izz al-Din al-Qassam Brigades website** (alqassam.ps, January 27, 2010).

2. [Q:] **How would you describe the juridical status of the resistance based on international law?**

[A:] First I would like to note that the Palestinian people still labor under the burden of the occupation. **International law stipulates the right of occupied peoples for self-defense, and stipulates their right to resist occupation** in order to liberate their land from occupying forces. **The acts of resistance carried out by the Palestinian resistance factions include rocket and mortar attacks on the occupying Zionist forces.** All military activities performed [by those factions] **are within the legitimate means, according to international law,** for defending our people and liberating our occupied land in order to achieve self-determination..."

3.[Q:] **If resistance is a legitimate right, why does the West refer to it as terrorism?**

a. [A:] International law, which empowers occupied peoples to resist the occupation, also sets principles for foiling acts of war. In international law, each side has to avoid hitting civilians and civilian facilities. The Zionist occupation managed to use [those] legal principles for its benefit in the past. It misrepresented and still misrepresents

¹ For further details, see our December 17, 2009 Information Bulletin: "[A Hamas "ministry of justice" committee called Al-Tawthiq \(Documentation\) claims to be behind the arrest warrant issued in Britain for former Israeli Foreign Minister Tzipi Livni. It is part of the Hamas campaign to pursue Israelis in Europe in the name of the victims of Operation Cast Lead](#)".

[those facts] to global and particularly Western public opinion. [It claims] that the Palestinian resistance is a criminal element which strives to hit civilians and murder Jews in a racist fashion, and that the Palestinian resistance is made up of criminal groups which strive to destabilize the security and stability of the region. The fact that we are an occupied people who exercise their legitimate right to resist the occupation and to self-defense has been blurred.

b. That resulted from our weakness on the media and from the continuing weakness [of the way we are seen] by the West. The West believed the Israeli narrative and did not agree to hear our message at the time. I can say that [thanks] to the era of satellite and free media in which we currently live, many have started to show a desire to understand the message of resistance of the Palestinian people, and the world and international public opinion, particularly Western public opinion, started to understand which one is the victim and which one is the hangman. We live [in a reality of] multiple views, and the Palestinian narrative keeps penetrating [more and more] into the international position, which is reflected in the [penetration of] truths which confirm that the Palestinians are an occupied, robbed, and hurt people, expelled from their land and exercising their legitimate right to resist the occupation in accordance with international law.

4. [Q:] Regarding the [Israeli] aggression against the Gaza Strip, according to your monitoring, did the [Palestinian] factions of resistance comply with [international] law, even though they are not a regular army?

a. [A:] **The Palestinian resistance has confirmed on more than one occasion that it is committed to international law and that its rocket and mortar attacks are aimed at the military targets of the occupation.** For example, concentrations of tanks which fire on the houses of [peaceful] civilians in the Gaza Strip. [It also] **targets the military airfields from which the occupation fighters are launched**, that did not leave the skies of the Gaza Strip during the entire war [i.e., Operation Cast Lead]. Likewise, [the resistance] targets outposts where occupation forces congregate while preparing for an invasion into the Gaza Strip.

b. The resistance has managed to internalize the meaning of its commitment to international law. **Two answers can be given to the claims of the [Israeli] occupation, according to which three civilians were killed as a result of the rocket [attacks] of the resistance:**

1. **The rockets of the resistance - despite the efforts not to harm civilians - are imprecise**, and may slightly miss their targets. That is what happens in all armed conflicts. **The killing of three civilians [by rocket attacks] in 22 days, in which hundreds of rockets were fired [on Israel], proves that civilians were not the target of the rocket attacks**, since dozens of them would have been killed otherwise.

2. **The occupation authorities claim that the areas where the resistance rockets landed are part of the State of Israel; however, international law has a different opinion, since the signing of the Oslo Accords between the Palestinian Authority and the [Zionist] entity is not considered to be a final solution** or final agreement on the delineation of the borders. As long as there is no final agreement, the matter of delineating the borders rests with the international resolutions, i.e., the [1947] Partition Resolution, on which the International Court [the Hague] relies in its decisions regarding the [separation] fence. Even though we have reservations regarding the [Partition] Plan, **most of the population centers in which the rockets of the resistance landed are inside the Arab international borders** as specified in the Partition Plan. We therefore learn that it is the **enemy state [i.e., Israel] which perpetrated a crime by relocating civilians to combat zones and settling them in land which did not belong to them**, which contradicts international authorities. Likewise, [it] put civilians in a site which is the focal point of the military and political struggle, thus violating their rights. We therefore learn that the Palestinian resistance exercised its legitimate right by adhering to the principles of international humanitarian law, and that it was the occupation forces which violated the law and inflicted suffering and horror on the civilians.

5.[Q:] **Does Justice Goldstone's report jeopardize the resistance...?**

- a. [A:] **The report of the international mission headed by Justice Goldstone is considered one of the most powerful reports which convicted the Zionist occupation of crimes of war and what may even amount to crimes against humanity.** The report corroborated the allegations through testimonies and evidence stretching over more than 500 pages; **at the same time, [the report] exonerated the resistance of the claims of using civilians as human shields.** Moreover, the report even confirmed that the civilian police, who were targeted in the first day of the aggression [i.e., Operation Cast Lead], are civilians, and that firing on them constitutes a blatant violation of humanitarian and international law and is a crime of war.

b. What further strengthens the report is the fact that it was approved by the Human Rights Council and the United Nations General Assembly, which confirmed its recommendations. In addition, the report included recommendations and [legal] means for trying international war criminals. **That does not suggest that I should not express my reservations about the last ten pages [of the report], in which it points the blame at the resistance and claims that it may have perpetrated crimes of war by targeting civilians. Those accusations, however, had no proof or legal basis, and will be refuted in light of the principles of international law, which grant occupied peoples a legitimate right to resist the occupying enemy...**

c. I would like to stress that the Palestinian government received the complete text of the Goldstone Report, and will address all aspects of it. **The Palestinian government already does so by taking serious measures to implement the recommendations of the report, and it established independent committees to investigate the claims brought up in it and to discover the truthfulness of the accusations that appear in it. However, I can say that all the claims that appear in the report will be refuted** because they bring up accusations in violation of international law, and it will become clear, through the independent inquiry committees, that what I say is true.

6.[Q:] **Seeing as we expect new acts of aggression [by Israel] against the Gaza Strip, does that mean that the Zionists will have no qualms about perpetrating crimes of war in such acts of aggression?**

a.[A:] **We are still early in the process of filing lawsuits against the commanders and soldiers of the Zionist occupation.** As we begin, we understand the difficulties and obstacles we are facing, reflected in double standards and lack of balance between international forces, which until now have favored the occupation. We believe that time will work to our benefit, since the issue of filing lawsuits builds up gradually. The world must realize that if the criminal occupier feels itself above questioning and accountability, it will be encouraged to perpetrate [further] atrocities and crimes. Putting a limit on the policy of avoiding punishment will enhance the authority of international law, ensure the spread of international justice, reaffirm [the existence of] justice towards the victims of the [Israeli] aggression, and deter anyone who might be tempted to perpetrate international crimes. I believe we are taking a first step [forward], which I believe is a successful step, and I think that this step [even] realized some of our goals. We will exert further efforts to deter the occupier and his criminals from committing any more atrocities and crimes against our

people. Moreover, we will make efforts to do justice with our victims of the [Israeli] aggression and guarantee their right for compensation.

Muhammad Faraj al-Ghoul's press conference

7. **Muhammad Faraj al-Ghoul, the justice minister in the Hamas administration,** held a press conference in Gaza City (January 27) which was shown on Hamas's Al-Aqsa TV. During the press conference, **he described the measures taken by the Hamas administration with regard to the Goldstone Report,** even though he claimed that the recommendations of the Security Council did not require the Palestinian side to conduct any investigation. **According to Al-Ghoul, Hamas established an "internal inquiry committee" to investigate deliberate violations of international law and expert committees to monitor the recommendations of the Goldstone Report.** He claimed that those committees did professional work in accordance with international standards. **Their response includes 52 pages** and will be submitted **to the director of the [Human Rights] Commissioner's office in the Gaza Strip** within the specified time period, which will be very soon.

8. According to Muhammad Faraj al-Ghoul, [the Ministry of Justice] **is now investigating other Israeli "crimes of war", including stealing organs from shaheeds (martyrs).** According to Al-Ghoul, the general prosecution of Hamas is going to file lawsuits against Israel about those issues and conduct a special workshop regarding it (note: **on January 27, 2010, Hamas's daily *Felesteen* published an announcement by the Ministry of Justice in the Hamas administration, announcing the start of preparations for assembling all the information and documents "proving" that Israel had indeed stolen organs from shaheeds.** The purpose is to build a "complete case that would cover all legal aspects" and be used as a basis for lawsuits against the Israeli government in international courts. Gaza Strip residents who have relevant information were asked to send it to the Ministry of Justice so that it can be included in the case being put together against Israel).