

Fordham University School of Law,  
140 W 62nd Street,  
New York

April 27, 2010

**Re:** Conference: The UN's Goldstone Report: Lawfare & The Threat to Israeli and American National Security in the Age of Terrorism

Dear Conference Organizers and Guests,

The undersigned organizations and individuals would like to bring to your attention our shared concern regarding the purpose of today's conference, "The UN's Goldstone Report: Lawfare & The Threat to Israeli and American National Security in the Age of Terrorism". Given the title, agenda, and speakers, the undersigned believe that the conference is one sided. The intent appears to be to label the Report of the United Nations Human Rights Council's fact-finding mission on the Gaza conflict ["UN Report"] as "lawfare," that is to say that the Report was politically motivated, and without merit.

The announcement for this conference states that it is being held in view of "attacks on the legitimacy of actions taken in self-defense." However, the Israeli Ministry of Foreign Affairs' own web site includes an article, "[One Month of Calm along the Israel-Gaza Border.](#)"<sup>1</sup> that shows that Israel's attack on Gaza was not in self-defense against rocket fire, as more fully described in an article "[Israeli Government Contradicts its Own 'Self-Defense' Argument.](#)"<sup>2</sup> In essence Israel had already stopped rocket fire with an Egyptian brokered cease fire in June, 2008. The Israeli-government web site lauded Hamas not only for stopping its own rocket fire but for arresting members of other groups who sought to launch rockets. The cease fire improved each month. Then, on November 4, 2008, Israeli forces violated the successful cease fire by launching a surprise aerial and ground on Gaza, killing 6 Hamas members. Hamas then launched a barrage of rockets. Israel sent ground and air forces into Gaza eight more times in the next 8 weeks before launching its massive aerial attacks on December 27. The self-defense argument is flawed. We urge conference attendees to raise questions about the self-defense claims.

In addition, the UN Mission, headed by respected South African Justice Richard Goldstone, prepared its Report based on months of investigation of events preceding and during Israel's Operation Cast Lead from December 27, 2008 to January 18, 2009. In over 500 pages, the Report presents the findings of this investigation as well as conclusions and recommendations. The recommendations

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<sup>1</sup> <http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Hamas+war+against+Israel/One+month+of+calm+in+Gaza+28-Jul-2008.htm>

<sup>2</sup> <http://www.globalresearch.ca/index.php?context=va&aid=15647>

include a call for independent and impartial investigations to be conducted by both the Israeli government and Hamas into the war crimes and potential crimes against humanity found by the UN Mission.

In particular, the facts presented in the report show that Israeli political and military leaders intentionally targeted civilians and civilian infrastructure, failed to care for the wounded, interfered with Palestinian human rights workers, and used Palestinian civilians as human shields, all in violation of the requirements of the Fourth Geneva Convention. These facts cry out for investigation by a competent, independent, and unbiased Israeli judicial body, something the Israeli government has so far refused to do. We would ask conference participants to endorse this recommendation.

We are concerned that this conference is being used to distort international law by rejecting requirements of distinction and proportionality that are meant to protect civilians from the use of military force. The attack on such provisions, if successful, may protect political and military officials from being charged with war crimes and crimes against humanity but it will degrade international law. Degrading international law, at the end of the day, exposes the Israeli government and its supporters not only to severe criticism but it also undermines any future desire by Israel to rely on international law for its own protection. No one has a free pass to attack civilians. We urge conference attendees to condemn any efforts to justify what appears from the Goldstone report to be unlawful attacks on civilians and civilian objects..

The undersigned support the freedom of academic expression and encourage conference organizers and guests to scrutinize, question, and discuss the facts, conclusions, and recommendations presented in this authoritative Report.

The undersigned call on conference participants to condemn the unfair criticism that has diverted attention from the contents of the report and that has included personal attacks on Justice Richard Goldstone.

The Israeli and Palestinian peoples are affected daily by political maneuvers that aim to conceal the truth and delay justice, accountability, and peace. The undersigned ask conference organizers and guests to maintain productive legal dialogue throughout the day in an effort to not further derail the movement for an impartial investigation and accountability for such serious charges as the war crimes and crimes against humanity described in the Report.

Thank you for considering this matter.

## **Conference announcement**

American Association of Jewish & Touro Institute on Human Rights; Lawyers and Jurists and the Holocaust along with B'nai Brith; The Lawfare Project; The American Jewish International Relations Institute; The International Council of Jewish Women; World Council of Conservative/ Masorti Synagogues; Women's League for Conservative Judaism; Scholars for Peace in the Middle East; Jewish Law Students; Association of Fordham Law School; The Endowment for Middle East Truth Present

The UN's Goldstone Report: Lawfare & The Threat to Israeli and American National Security in the Age of Terrorism

DATE: April 27, 2010; 9:00 a.m. – 5:00 p.m.

VENUE: Fordham University School of Law, 140 W 62nd Street, New York

International law and legal institutions are being used to pursue strategic and political goals as a corollary to modern warfare. In the case of Israel and the threat posed by terrorism in the 21st century, "lawfare" can be as biased and lethal as any other form of weaponry. Attacks on the legitimacy of actions taken in self-defense by democratic states, in the halls of the UN and international and domestic courts, radically undermine the ability to protect the welfare of the Jewish state and all democracies from the scourge of terrorism. This assault empowers and emboldens the enemies of democracy and encourages the intolerance and antisemitism at the root of the terrorist and anti-Zionist agenda.

In particular, the semblance of authenticity and the cloak of legal language surrounding the Goldstone Report have given it an undeserved legitimacy and inspired a plethora of further mechanisms intended to demonize and delegitimize the state of Israel. The report and the lawfare strategy it embodies, erode the legitimacy of international law and pose a clear and present danger to the right of all democratic states, including the United States, to defend themselves. This program will explore, examine and expose the fallacies of the Goldstone Report, and other manifestations of lawfare, as well as suggest strategies for fighting back.

### THE PROGRAM INCLUDES:

9:00 - 10:30

The Goldstone Report: The Demonization of Israel and Human Rights Distortions

10:30 - 10:45 BREAK

10:45 - 11:00

Gabriella Shalev, Ambassador of Israel to the United Nations

11:00 - 12:30

The Goldstone Report: Undermining the Defense of Democracy in the Age of Terrorism

12:30 - 1:30 LUNCH BREAK

1:30 - 3:00

Legal Weaponry: The Perversion of International Jurisprudence and Institutions

3:00 - 3:15 BREAK

3:15-4:45 International and Domestic Legal Recourse: Responding to Lawfare

4:45-5:00 Conclusion

**SPEAKERS INCLUDE:**

William C. Banks, Director, Institute for National Security and Counterterrorism, Syracuse University, College of Law;  
Anne Bayefsky, Director, Touro Institute on Human Rights and the Holocaust, Senior Fellow, Hudson Institute;  
Avi Bell, Professor of Law, University of San Diego School of Law and Bar Ilan University Faculty of Law,  
Lt. Col David Benjamin, former Director of the Strategic and International Branch, International Law Department, Israel Defense Forces;  
Elizabeth Defeis, Professor of Law, Seton Hall;  
Samuel Edelman, Executive Director, Scholars for Peace in the Middle East;  
Allan Gerson, Chairman, AG International Law, PLLC;  
Brooke Goldstein, Director, The Lawfare Project;  
Stephen Greenwald, President, American Association of Jewish Lawyers and Jurists; Peter J. Haas, President, Scholars for Peace in the Middle East;  
Malvina Halberstam, Professor of Law, Cardozo School of Law;  
Martin Kramer, Senior Fellow, Shalem Center; Wexler-Fromer Fellow, The Washington Institute for Near East Policy;  
Richard Landes, Professor of History, Boston University;  
Nathan Lewin, Partner, Lewin and Lewin, Washington DC;  
Herb London, President, Hudson Institute;  
Kenneth Marcus, Ackerman Visiting Professor of Equality and Justice in America, Baruch College;  
David Matas, Senior Honorary Counsel, B'nai Brith, Canada;  
Ed Morgan, Professor of Law, University of Toronto;  
Trevor Norwitz, partner, Wachtell, Lipton, Rosen & Katz; Adjunct professor, Columbia Law School;  
Nicholas Rostow, University Counsel and Vice Chancellor of the State University of New York;  
Gabriella Shalev, Ambassador of Israel to the United Nations;  
Shmuel Trigano, Professor, Paris X University Nanterre

**KOSHER LUNCH PROVIDED. SEATING IS LIMITED AND PARTICIPANTS MUST PRE-REGISTER. PLEASE RSVP TO [info@jewishlawyers.Org](mailto:info@jewishlawyers.Org)**