

**Ta'anit Tzedek תענית צדק**  
**JEWISH FAST FOR GAZA**  
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**Transcript of Recording of Conference Call  
With Judge Richard Goldstone  
October 18, 2009**

**Hosted by Ta'anit Tzedek Jewish Fast For Gaza  
Rabbis Brant Rosen and Brian Walt**

**Co-sponsors of the Call:  
Ta'anit Tzedek, Jewish Fast for Gaza  
Rabbis for Human Rights – North America  
Rabbinic Cabinet of Brit Tzedek v'Shalom  
OHALAH, the Association of Rabbis for Jewish Renewal**

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[All notations in square brackets are notations from the transcribers.]

[Start of recorded material]

Rabbi Brian Walt: Brant, you start.

Rabbi Brant Rosen: Let's begin. Good evening, everyone, and thank you for joining us on our call this evening. My name is Rabbi Brant Rosen and together with Rabbi Brian Walt, who you just heard, I'm the co-coordinator of Tannit Tzedek, the Jewish Fast for Gaza. I want to especially thank our guest tonight, Judge Richard Goldstone, for taking time out of what must undoubtedly be a very, very busy schedule to join us for tonight's conversation.

Tonight's conference call has been convened by Tannit Tzedek, and before we begin I'd just like to say a few words about our initiative. Tannit Tzedek, Jewish Fast for Gaza, is an ad hoc group of rabbis, Jews, and people of conscience who have committed to undertake a monthly daytime fast in support of four essential goals: to call for a lifting of the blockade that prevents the entry of civilian goods and services into Gaza; to provide humanitarian and development aid to the people of Gaza; to call upon Israel, the U.S. and the international community to engage in negotiations without preconditions with all relevant Palestinian parties, including Hamas, in order to end the blockade; and to encourage the American government to vigorously engage both Israelis and Palestinians towards a just and peaceful settlement of the conflict.

And I would add that Brian and I were really inspired and considered the driving force of this initiative to seek to break the Jewish communal silence over the collective punishment of the citizens of Gaza.

At present, more than 70 rabbis and almost 900 supporters have signed on to our fast. Our water-only fast takes place on the third Thursday of the month from sunrise to sunset, so that means the next fast will take place on Thursday, November 19<sup>th</sup>. If

you haven't signed on, we encourage you to do so. You can join us and get all the information you need at our Web site, [fastforgaza.net](http://fastforgaza.net).

I'd also like to acknowledge the cosponsors of tonight's call, Rabbis for Human Rights North America, the Rabbinic Cabinet of Brit Tzedek v'Shalom and OHALAH, the Association of Rabbis for Jewish Renewal. We'd like to offer our heartfelt thanks to these three organizations for their support and especially for their efforts in reaching out to their respective constituencies to promote this call. I should add that though these organizations, like Tannit Tzedek, obviously have their own unique missions and agendas tonight's call is educational and informational in nature. All of us have joined together for one essential reason: to learn from Judge Goldstone. And again, we deeply appreciate his willingness to join us this evening.

This is Tannit Tzedek's third phone conference on issues of Gaza. Two weeks ago we convened a phone conference with Fred Abrahams from Human Rights Watch and Jessica Montell, who is the Executive Director of B'Tselem. The audio recordings of these phone conferences are on our Web site. We are recording this call as well and we will be posting it soon. In the meantime, we invite you to send in feedback and your follow-up thoughts to myself or to Brian, and our contact info is also available on our Web site.

The questions that we will ask tonight have largely come from questions that were sent in by our callers, by our participants, by you. And we've done our best to choose what we consider to be a representative sample and the most critical questions to pose to Judge Goldstone.

At this point, I'd like to introduce to you Rabbi Ellen Lippmann, the co-chair of Rabbis for Human Rights North America. I hope she is on the call? Ellen, are you there?

Rabbi Brian Walt: She may not be. She sent me a note that she's not, so – is John on the call?

Rabbi John Friedman: I'm right here, yes.

Rabbi Brant Rosen: Okay. In that case, let me introduce to your Rabbi John Friedman, the chair of the Rabbinic Cabinet of Brit Tzedek, and he will offer some brief words of welcome on behalf of his organization.

Rabbi John Friedman: Well, thank you, Brant. [Unintelligible audio cuts in and out – bad connection].

Rabbi Brian Walt: John, you can't be heard clearly, I don't believe.

Rabbi Brant Rosen: No, it's very broken up.

Rabbi John Friedman: I'm not exactly sure what to do. I'm on my cell phone. This is a very difficult one for many of us. Rabbis sometimes, when we take a position, get a lot of pushback. So it's one of the reasons that the Brit Tzedek rabbinic cabinet was formed, in order to give support to rabbis. And I know our sister organizations act likewise to try and help rabbis who want to speak their minds and need to be supported. And that's why we have so many rabbis who are part of the rabbinic cabinet – over a thousand who subscribe to our organization – and I know Rabbis for Human Rights and [unintelligible] and other organizations act likewise to give support to rabbis who want to take positions and require a community around them to be able to say, "We're behind you. We support you. You're not alone in this." It's very important, especially when you have to stand up for an issue like Gaza, the question of how we should comport ourselves with what's happening in Gaza, and face people who are very much against our positions.

Now, I'd like to ask Judge Goldstone a question, if I may –

Rabbi Brian Walt: Not at this point, John – can you hold the question until the end? We're going to keep the questions until the end.

Rabbi John Friedman: Sure, absolutely.

Rabbi Brian Walt: Is Rabbi Lippmann on the call?

Rabbi Brant Rosen: Ellen, are you there?

Rabbi Brian Walt: Okay, we're going to go on. Someone here is trying to help me get Rabbi Lippmann on the call.

Rabbi Brant Rosen: I'd like to at this point invite my good friend and colleague, Rabbi Brian Walt, co-coordinator of Tannit Tzedek, to introduce our guest tonight.

Rabbi Brian Walt: I want to say how grateful I am that Judge Goldstone has generously agreed to this phone conference. And we're also really grateful that we have 150 phone lines that are the maximum for this conference, and all the phone lines are taken. There are rabbis from across the country, from many different points of view, who are listening in at this point. And we're really grateful that you're all on the line for this important conversation.

For me, as a rabbi who grew up in South Africa, it is a special honor to introduce Judge Goldstone, who played such an important role in the transformation of South Africa from apartheid to a democratic country. As a judge, Judge Goldstone issued a judgment against the eviction of an Asian woman under the notorious Group Areas Act, a core apartheid law that determined where people could live according to their race. His judgment in that case ended the evictions enacted under that law.

In the last years of apartheid, as the chair of the commission into the use of violence by secret agents of the apartheid government against its opponents, he uncovered murder squads set up by the government and revealed the details of their despicable acts of violence. And in the early years of the new democratic South Africa, he served as a judge on the Constitutional Court.

As many of you know, in the international arena he became the Chief Prosecutor in the International Criminal Tribunals on Yugoslavia and Rwanda. Judge Goldstone, in addition to being a renowned human rights advocate, lawyer, and judge, is also a committed Jew and Zionist, a member of the Board of Trustees of the Hebrew University, President Emeritus of World ORT, to name just two of his Jewish communal commitments.

For tonight's conversation, we're talking to Judge Goldstone in the context of his role as the chair of a UN fact-finding mission into the Gaza War. As all of you know, the

original mandate was limited to Israel and Judge Goldstone insisted that the mandate be altered to include both the actions of Hamas and Israel, and that was the mission that Judge Goldstone fulfilled.

Clearly, as we all know, there has been a lot of conversation and controversy about the Goldstone Report and tonight is a wonderful opportunity for us to welcome Judge Goldstone to share with us his reasoning and to respond to questions.

So welcome Judge Goldstone. We'll begin by having you make a few opening remarks and then Brant and I will follow up with questions that have been submitted by the rabbis on the call. So welcome, Judge Goldstone, and thank you so much.

Judge Richard Goldstone: Thank you very much indeed, Rabbi Walt. First, I'd like to thank you and Rabbi Rosen for having arranged this call. I'm deeply appreciative, and I say good evening to all of the people listening in.

As Rabbi Walt suggested, I'm going to spend a few minutes just talking about where I've come from and say a few words about the Gaza mission. Firstly, as Rabbi Walt mentioned, I was born and grew up in South Africa. My parents were born in South Africa and my one grandmother was born in South Africa. The others came as very young children in the 1880s.

And I grew up in a very typical upper middle-class white South African Jewish home. It was a Zionist home very much. My mother was very active in the Zionist movement from way back in the 1950s, before I was born. And that was the atmosphere in which I grew up. My parents opposed racial discrimination and apartheid but they were not activists at all, and I certainly met no black South Africans in my home. And indeed, until I went to university, to Witwatersrand University in Johannesburg, I'd met no black South Africans as peers. So I grew up with the prejudices that were dominant in the white South African community generally, and that applied pretty much to 95% of the Jewish community.

The other point I'd make – and I'm sure Rabbi Walt would agree – I think the South African Jewish community is possibly unique, possibly not, but certainly in the South African Jewish community there's no split between being Jewish and being

Zionist as the two go together and I think are pretty much the two sides of the same coin. And that was certainly my understanding of the position – if one was Jewish, one was a Zionist and one supported Israel. And certainly I did that for my youngest days at university. I became, I think, the first chairman of the Younger [unintelligible] Association and then in 1966 I was recruited and became involved with World ORT. And that was my major commitment in Jewish life, to World ORT. I served for many years as the chairman of South African ORT. I joined the executive committee of World ORT [unintelligible] in 1967 and rose through the ranks to become President of World ORT for seven years. And at the end of that, I'm still the President Emeritus of World ORT.

I don't believe that being Jewish has shaped my views particularly towards racism and racial oppression. As I mentioned, until I went to university I'd never met black South Africans and it was a watershed event for me. My first week at university was the first time in my life meeting black South Africans as equals, as peers, and striking up friendships and having lunch together in the university cafeteria. And I became angry and frustrated in that very first week at the inequity and unfairness of black students being equals on the campus but the minute they stepped off into the street they lived in a completely different world. They had to carry special ID documents, called passes. If they forgot them at home they were liable to be picked up and put in prison for the night. They went home to enforced segregated poorly developed black townships in Soweto, Alexandra Township. Many of them didn't have electricity. Many of them didn't have running water. And when I went home to a comfortable home in a white suburb with tarred roads and parks and electricity, they had to go to these very poor living conditions.

And it was really in that first week that I became actively involved in the student anti-apartheid movement. And that, I think, shaped the rest of my adult career.

I'd like to think that being Jewish played a role. I've certainly had difficulty in understanding how Jews who have been persecuted for over two millennia can themselves be in support at all of any form of irrelevant discrimination, whether on grounds of color or religion or race and so forth. And yet I suppose we all are products of our own homes and the overwhelming majority of South Africans, if

they didn't actively support apartheid, certainly felt comfortable with it. And did very little to stop the racial oppression in South Africa.

The question of collective guilt [from his later correction, clear that he means “collective punishment”] was raised by Rabbi Rosen in his introductory remarks and, again, one of the things that shocked me in coming to Gaza was to see how collective guilt, I mean collective punishment had been visited on the people of Gaza, and saw with my own eyes and heard with my own ears the affect of the blockade. And I fully support the action that your movement is taking in that regard.

I've been involved, as Rabbi Walt indicated, with investigating war crimes and serious crimes against humanity not only in my own country but in the former Yugoslavia and in Rwanda – in Kosevo in particular. I was involved in investigations into the highest level of government when I joined Paul Volcker in the investigation into the United Nations Iraq Oil-for-Food Program. I have for five years now been a co-chair of the International Bar Association Human Rights Institute, and I co-sign letters just about every week protesting a human rights violation in many countries around the world, including China and Iran and Saudi Arabia and Bangladesh, Sri Lanka, etc. So it's been part of my adult life, and particularly in the last fifteen or twenty years, to be actively involved in this area and particularly with violations of international human rights law and international humanitarian law.

It was in that context that I found it difficult to reject a plea I received from the High Commissioner for Human Rights, Navi Pillay, who is fellow South African I've known for at least the last twenty years. Initially, as is well know, I refused to become involved in the Gaza mission because I was not prepared to get involved with a mandate I considered not to be evenhanded, a mandate that suggested that only Israel had committed violations in the context of Operation Cast Lead. And I thought that was the end of it. But it wasn't, because I was asked to meet with the High Commissioner and, more importantly perhaps, the President of the Human Rights Council, who was then the Ambassador from Nigeria, who asked me what I would consider to be an evenhanded mandate. And I informed him I would consider an evenhanded mandate an investigation into all relevant violations in the context of

Operation Case Lead, whether committed before, during or after the military operations launched by the Israel Defense Force.

And the mandate that I explained was given to me by the President of the Human Rights Council and he said, "Well, if that's the mandate that you think is evenhanded it's my job to set up the fact-finding mission. That's the mandate I'll give you and I'm sure it will be accepted by the Human Rights Council." Well, I wasn't so sure about that, but in fact the President took it to a plenary meeting of the Human Rights Council and there was no objection to the expanded mandate. And I then discussed the mandate with the four sponsoring ambassadors, the four nations that sponsored the original resolution, and they had no mandate [likely he meant "objection"]. And I think that explains why the Human Rights Council last week adopted the whole report. I was always nervous that the Human Rights Council might treat the report as a sort of a-la-carte menu and approve those parts which were condemning of Israel and would reject those parts which were condemning of the Palestinians, whether Hamas or Fatah.

But in fact, those of you who would have seen or read about the resolution know that it adopted the whole report, which obviously includes the findings of serious human rights violations and humanitarian law violations – war crimes – on the part of Hamas.

It was a more difficult decision, I think, for me as a Jew to accept the leadership of the Commission. I knew there would be strong and negative opposition to my doing it on the part of members of the Jewish community and particularly the government of Israel and its supporters in Israel and the Diaspora. But I really felt that to live with myself and to live with my own conscience, I couldn't justify having gotten involved in the investigations in many other countries and because I was Jewish refuse to use the same norms and the same principles in relation to Israel.

Let me say, to conclude this part, that I really did believe – perhaps naively, in hindsight – that the government of Israel would cooperate. I thought this was the first time that the Human Rights Council had ever given an evenhanded mandate in a matter relating to the Middle East. I thought this was a new direction – and it is a

new direction, but I thought that the government of Israel would see it in that light and would cooperate.

Unfortunately, when I wanted to discuss this with the Israeli Ambassador in Geneva my overtures were rejected. I sent further letters asking for a reconsideration of the initial rejection on grounds that were incorrect. The first rejection was on the basis of the original mandate, which I had rejected. And I pointed out that that was incorrect and requested the Ambassador to bring this to the attention of his government. I then wrote a letter personally to Prime Minister Netanyahu, offering to come at short notice to meet with him or any members of his government who were relevant to discuss how the mandate should be approached. I requested their advice as to what incidents we should look into and their advice as to how our mission should implement the mandate.

There was no response for almost two months, until I received a letter from the Israeli Ambassador in Geneva saying on his own behalf and on behalf of the Prime Minister – and without reflecting on my own integrity and reputation – the Israel government was not able to work with us, or to cooperate.

So I think that's the sort of general background of where I was coming from and how I got involved.

Rabbi Brian Walt: Thank you. If I can just interrupt to say that the people who have speaking privileges on this call – if you could press \*6 you would mute yourself at this point. I think we're getting some interference from people's little noises. So if that's possible, if you could do that, that would be helpful.

Rabbi Brant Rosen: Thank you, Judge Goldstone, so much, in particular for your comments and speaking personally as a South African Jew. I think towards the end we'd like to talk to you a little bit more to reflect on your experience in that regard.

But we'd like to have our first set of questions really focus on the report itself, and in particular the methodology that you used to gather the information for the report. I think the first place that would probably be most helpful would be for us to hear you reflect a bit about how you gathered your information, and in particular how you

verified the veracity of the information that you gathered. That was the subject of a number of questions that we received.

Judge Richard Goldstone: Well, for any of you that have the report, the methodology we adopted is set out in some detail in paragraphs 151 to 174, beginning on Page 41 of the report.

But in general – let me first deal with Gaza. I'll deal separately with the West Bank and with Southern Israel, and I make the distinction because we were allowed to go to Gaza but we weren't allowed into Southern Israel and we weren't allowed into the West Bank because of the attitude of the Israeli government. But in respect to Gaza, we interviewed many people. We conducted roughly a hundred interviews in Gaza with victims, with organizations, with the United Nations, agencies, and so forth. We saw many of the witnesses in the office we were given in the U.N, in the UNRA offices. We saw many of the witnesses at their own homes and people from the area came to see us in their circumstances.

Let me immediately refute with every conviction that I can muster the mischievous and untruthful suggestion that there was any Hamas presence anywhere near the places where we interviewed witnesses. It just isn't true. Had it been so, I would have found that completely unacceptable and would have immediately stopped the process. So that just didn't happen. The suggestion was made – I see there's an Op Ed in answer to an Op Ed I've just published in the Jerusalem Post this morning in Israel on Monday suggesting that we were directed or influenced by Hamas in who we saw. Again, that is without any truth at all. We had our own independent staff. We had a staff of about sixteen, almost all lawyers. And in addition, we had interpreters obviously, from Arabic and from Hebrew. But our professional staff were – very few, maybe two or three, came from the permanent staff of the High Commissioner's Office in Geneva. The other staff were recruited specially and came from about twelve countries, including Italy and the United Kingdom, Scotland and various other countries – South America, e– people really without any particular history or contract with the Middle East, but people who were experienced in investigations. Some of them had worked for the International War Crimes Tribunal, the International Criminal Court. And they spent some time in Gaza before we got there consulting and finding out what sort of incidents there were that we should consider looking into.

And we were given a very long menu of incidents, from which we chose thirty-six. It could have been 136. We had a very limited timeline of two to three months to investigate. And we decided to choose those situations which appeared to us to be the most serious, where there were the highest fatalities and injuries, to investigate in situations which didn't appear to involve difficult decisions being taken by soldiers in what's being called "the fog of war." We wanted to look at situations that appeared, on the face of it, clearly to involve attacks on civilians in situations that didn't appear to have any military justification.

So obviously we chose what we wanted to look into, and that was the main guidelines on which we operated. We received documentation. We looked at thousands of pages of reports of other organizations. Because we got there fairly late – by the time we got there, there were investigations by Amnesty International, by Humans Rights Watch, by the John Dugard's Arab League Report, and Ian Martin's [unintelligible] Report on behalf of the Board of Inquiry that was set up by the Secretary-General into attacks on the United Nations facilities.

So we had a mass of written information, which we familiarized ourselves with. And we then started meeting witnesses, and obviously we asked questions of them. We inquired whether they had any Hamas connections. We obviously didn't take at face value answers we got – we checked to the extent we could on the information we got. We tested it against information which some of the same people we saw had given previously. We checked for consistency. Obviously, all four members of the mission had had experience in this sort of activity and I think after having been a judge for twenty-three years I've got a pretty good idea of weighing up the veracity of people. I'm obviously not a psychologist, and mistakes can be made. But we certainly applied our best efforts in deciding on the credibility of witnesses we heard, the logical rationality of the information they gave us.

In addition, we commissioned UNOSAT, which is the United Nations satellite facility, to give us a full satellite report, which is part of our report. It's a thirty-four-page report with satellite photographs of Gaza before and after the Israeli Defense Force campaign. And we used that to corroborate or not corroborate a lot of the information we got with regard to damage.

So that generally is the approach we took.

Rabbi Brant Rosen: To follow up on the issue of the interviews and the veracity of the interviews, Ambassador Michael Oren has stated publicly that he believes the report is flawed because the only people interviewed were Palestinians and that the witnesses had to testify publicly, which meant they may well have been intimidated into providing false evidence. So how would you respond to such a claim?

Judge Richard Goldstone: Well, I reject the claim absolutely. The fact that we only spoke to Palestinians in Gaza speaks for itself. But even that is incorrect – obviously the victims were Palestinian, but we spoke to many members of the international community in the United Nations and in the foreign few embassies [unintelligible] representation to journalists.

And very importantly, we spoke to a number of really outstanding non-governmental organizations, both Palestinian and Israeli. I just have the highest regard and respect for some of the – particularly, perhaps, the Israeli NGOs who have been involved in Gaza with tremendous courage and commitment. And obviously, a lot of the information we got from them was important. A lot of photographs – a lot of photographic information, because these NGOs realized the importance of taking photographs immediately, actually during the war itself. And that provided important corroboration.

To give you just one example, I was very distressed at some of the graffiti I saw that we were told had been written on the walls of destroyed or damaged homes by the Israeli Army, in Hebrew and in Russian. And one of the questions I asked our staff was: how do we know this wasn't put there afterwards as propaganda by the Hamas or Palestinians? And we were shown photographs taken really within very few hours of the damage being done, showing this graffiti on the wall. So it's that sort of corroboration that's very important.

Rabbi Brant Rosen: I think for many people who don't understand how these kinds of investigations work, there's this sense or concern that you're only able to get to partial information – that you're not able to get the whole picture. And I think it's important for people to

understand that you're able to get the picture given the restrictions that exist during the investigations.

To that point, Judge Goldstone, you were quoted recently as saying that you personally wouldn't be embarrassed if any of the allegations in your report eventually turn out to be disproved down the line. And some are suggesting that this means you may well be backing away from the findings in your missions report.

Judge Richard Goldstone: Well, you know, I've read that. It's a complete, I suppose, misunderstanding. But certainly, it's a wrong understanding of what I was saying. We weren't conducting a judicial investigation, obviously. It wasn't even a quasi-judicial investigation. It was a fact-finding mission. We didn't make our findings according to the criminal standard of proof beyond a reasonable doubt. We didn't adopt any formal standard, but I would say it was a prima facie case, reasonableness on weighing up the evidence.

And in most of the incidents we had a look at, the evidence went all one way. But obviously, if there were a criminal investigation and if some of the allegations we found to be true were rejected by a court of law or not being proven beyond a reasonable doubt – well, I would absolutely accept that and it wouldn't be surprising. The information we've got would not be admissible as evidence in a criminal court.

I was in exactly the same position when I arrived at the Yugoslavia Tribunal. We had volumes of evidence and very strong findings made by an expert team on a fact-finding mission that had been set up by the Security Council – allegations, hundreds of allegations of rape and torture and murder in Bosnia and Herzegovina – a very similar investigation to ours.

We used that, as I mentioned in my interview with the Forward, as a roadmap – which was very useful, to be able to know where to go to investigate. And I see our report being useful in the same way. I still very much hope that by an open and transparent domestic inquiry in Israel and in Gaza the findings we made in our report, I'm sure, will be very helpful to investigators. But if a court of law came to a different conclusion, I wouldn't have any problem about that.

Rabbi Brant Rosen: Thank you. I want to now refer back to a comment you made in your introduction, vis-à-vis the Human Right's Council's endorsement of the report last week. And maybe this is an opportunity for you to clear up a little bit of confusion. I believe it was quoted in your Forward interview, an interview you made with a Swiss newspaper in which you said that the HRC's endorsement of your report was unfortunate because it only included censure of Israel and not of Palestinians. But you said in your introduction that it included both. I wanted to make sure –

Judge Richard Goldstone: Let me explain what happened. I was at a conference in Berne in Switzerland, an annual conference organized by the Swiss Ministry of Foreign Affairs. This was on Wednesday of this last week, and I was sent the then draft resolution that was being put before the Human Rights Council the next afternoon. And in fact, I got it early on Thursday morning, if I remember correctly. It could have been Wednesday night.

But I was concerned, because I read a roughly thirty-six-paragraph resolution that was in three parts, and only one part – Part B – dealt with the report. And there wasn't a word in this resolution other than condemnation of Israel. I was concerned, and I'm still disappointed, that the resolution dealing with our report wasn't a separate resolution. I think it should have been. It shouldn't have been mixed in with condemnations about East Jerusalem and other matters that were not relevant to our report.

But it was in that context that I spoke. At the conference I was on a plenary panel and also had a press conference with the Swiss media, and I said that I was saddened by the fact that the whole resolution only condemned Israel, where our report also condemned Hamas and other armed Palestinian groups.

As a result of my complaint, the matter was taken up in Geneva. And it resulted in an additional paragraph being inserted into the section dealing with the report, condemning the targeting of any civilians and calling for accountability of all parties. And that was a clear reference to all sides. Even if it might not have gone as far as I would have liked, it seemed to me that that at least put into the resolution findings that involved both sides.

So we're talking about, in fact, two different resolutions – the original draft, which I objected to, and the resolution that ultimately went before the Council, which had the additional paragraph.

Rabbi Brant Rosen: Well, thank you. That's helpful to clarify. Brian, would you like to take over?

Rabbi Brian Walt: Judge Goldstone, I think we want to move to the second area of questions, and I'd like to ask you more about the substance of the report and particularly about this question of intention, which has become such a big issue. For Israelis and for many supporters of Israel, there is a legitimate conversation about how one wages a war and how mistakes can happen in a war where civilians are hurt, and especially in a war where it's between a nation state and a resistance group or what some people call terrorists.

In your report, the report does go further and suggests some level of intentionality on the part of the IDF and I'd like you to elaborate on: what's the evidence that led you to this claim? What do you have to back up the claim?

Judge Richard Goldstone: Well, I think there are two aspects one must look at. The one is in respect of the intent to attack civilian targets in urban areas, in built-up areas. The example I've been giving, because it struck me particularly in a very hard way, was the mortar shelling of a mosque during a service. The mosque was full of worshippers in the combined morning and afternoon service. They were combined because of war. And a mortar shell came through the front door of the mosque and killed fifteen people and injured many more.

That clearly is unacceptable under any interpretation of the law of war. Now, the evidence by the Israel Defense Force in all the reports they put out – and we studied them carefully – is that they've got the sort of munitions and the technology that that doesn't happen in error. And in the absence of any explanation to justify it, we came to the conclusion – certainly on the balance of probability – that that was intentional. When we saw the terrible destruction Gaza, five thousand homes wholly or partially destroyed – in fact, many more partially destroyed – that's not by error. That's by design. The Parliament building, which was completely destroyed, the American

school was completely destroyed – these are civilian targets. It wasn't a mistake. The Israeli Defense Force doesn't do those things by error.

And it's consistent with that approach that there was this terrible damage to the infrastructure of Gaza. On what basis does one plow up, bulldoze, fields -- huge tracts of agricultural land? On what basis does one bomb the water works? On what basis does one destroy a large part of the egg-producing capacity of Gaza? Tens of thousands of chickens killed. On what basis does one destroy the only flour factory in Gaza? And so on.

Now, all of those things were done intentionally. And there's certainly been no response – our report has been out five weeks, over five weeks, and there's been no, no explanation of any of the events to which I've been referring.

Rabbi Brian Walt: And do you draw a distinction, then, between the attacks on the infrastructure and the attacks on human life, or do you regard them as the same?

Judge Richard Goldstone: Well, it seems to me to be consistent – there's one thread running through, and that was to punish the people of Gaza. It was a collective punishment. And I don't believe that sufficient distinction was made between civilians and combatants in that respect.

Rabbi Brian Walt: So let me ask you about another question that has come up. These questions all have come from the rabbis and also from Rabbi Rosen and I collecting all those questions. This is a question that was submitted by a rabbi who's participating in the call, and it's the concern that the IDF claims that Hamas uses Gazan civilians as human shields in staged attacks from the midst of civilian areas – from schools, from mosques – and it goes directly to the question you just addressed, because the Israeli government claims that Hamas was hiding in these civilian structures. And furthermore, one of our questioners cited video evidence that has shown up on YouTube of Palestinians using rocket launchers from a school compound.

Now, your report seems to suggest that you didn't find much indication of this.

Judge Richard Goldstone: Well, the incidents we investigate – that's true. And we said very clearly in our report that we didn't exclude that that may have happened in situations that we didn't investigate. So that certainly, as far as our report is concerned, is an open question. But certainly, as an international humanitarian lawyer – and incidentally, the YouTube reference that was made – we had a look at those photographs and other photographs we were sent. There's absolutely no basis on which one can say when those photographs were taken. So if that happened three or four years ago, that would have no relevance, obviously, to Operation Cast Lead.

But to give you example, if three or four Hamas militants come onto a school ground, assuming they came onto the grounds of the American school in Gaza City and launched mortars from there and then ran away there's no basis – there could be absolutely no justification for bombing and destroying the whole school. I obviously recognize the difficulty of fighting what's being called an asymmetric war – a war between the Israel Defense Force on the one hand and non-state actors on the other. It's very difficult, especially in a built-up area like Gaza. But by the same token, the laws of war require that the principle of distinction that is fundamental to the law of war, the distinction between civilians and combatants, has to be taken into account.

We investigated one situation, in fact, where homeowners that we consulted with described to us how two Hamas militants came with rocket launchers into their back garden, to their backyard, and were busy erecting the mortars. And the homeowner chased them out and said, "Don't you dare do this from here. You're going to endanger us." And they left.

But assuming that they had, at gunpoint, stopped being chased away and refused to be chased away and launched their mortars and then ran away I don't believe that any international lawyer would justify the bombing of the home of those civilians who objected to this happening.

Rabbi Brian Walt: But the one way in which it doesn't seem completely irrelevant – for instance, you say that the photographs don't have any relevance or that of course if someone came and then ran away it doesn't give justification to bomb the school. But it does in some way give some understanding as to how an army that's fighting that war could

make a mistake or could attack a particularly civilian structure that has been used by armed forces, by non-state armed combatants.

Judge Richard Goldstone: Well, of course mistakes can be made, as I say, in the fog of battle. But then it's a matter to put before an investigation.

Rabbi Brian Walt: Right. And so you believe that what you found there is significant, is overwhelming evidence that you could safely say that this was not error, it was –

Judge Richard Goldstone: It was by design.

Rabbi Brian Walt: By design.

Judge Richard Goldstone: Correct.

Rabbi Brian Walt: That's correct. Okay. And what you're saying now is that what you would recommend is an investigation to really investigate that claim and the incidents that you describe in the report and in other reports and have a judicial investigation eventually.

Judge Richard Goldstone: That's correct. Now, I would add another dimension, which is very important. We didn't investigate because it wasn't our mandate and we didn't have the ability to investigate, on the assumption that these acts or any of them were deliberate, who was responsible. The question of individual guilt is a matter that seems to me to be calling out, crying out for investigation. Who gave the orders to bomb the American school? For what reason? I mean, we didn't investigate the American school, but I drove past it on a few occasions. And it seemed to me to be a strange incident because the American school, on my understanding and from what we were told, was an anathema to Hamas. The American school stood for the United States Imperialism, for not teaching Islam, and it was a sort of focal point of opposition on the part of Hamas. And frankly, I would love to know why the Israeli Defense Force decided to completely destroy the whole school. I mean, it's really razed to the ground.

Rabbi Brian Walt: Thank you so much. To end this section – I'm watching the time – many people claim that the report focuses in an unbalanced way on Israel. And in one particular way there seems to be consensus, or a large body of opinion, that Hamas or the armed groups in Gaza will never launch an internal investigation. And on the other hand, Israel has in the past launched an internal investigation, and there is reason to hope that Israel could, if it chose to, launch such an investigation.

Do you think there are any sanctions that can realistically be placed upon Hamas and do you believe there's any reasonable chance that they would carry out an internal investigation?

Judge Richard Goldstone: Well, I think if Israel carried out an internal investigation there would be huge pressure on Hamas to do the same. I think politically it would be difficult for them. The impression I got was that certainly some leaders of Hamas would like nothing more than to be recognized by the international community. They want to become part of negotiations and it seems to me from the cooperation that they indicated that certainly we got, in facilitating our visit to Gaza – and obviously, we couldn't have come into Gaza if Hamas had said, "We're not having you here." Obviously, our lives would have been in imminent danger from the minute we set foot into Gaza. It's the de facto government of the Gaza strip.

So I think there would be tremendous pressure on them to do that. And I've been asked whether I thought that Hamas administration in Gaza is capable of an open and transparent investigation into the firing of rockets and mortars into Israel and, frankly, I don't know. All I know is that they do have an operating justice system. They have murder trials and they sentence people to be executed and they're caught, and there's a very active Palestinian bar. But if they're not then it's a matter, it seems to me, for the international community – and particularly the United Nations – to insist that the investigation in Gaza should be done locally but certainly with strong international assistance. There would be enough lawyers and judges in the Arab world to make it possible.

It's a question of political will, not a question of ability.

Rabbi Brant Rosen: Judge Goldstone, if I might, just one final question about the substance of the report – this is referencing something you mentioned earlier in reference to Israeli actions against Palestinians in occupied territory other than Gaza, namely the West Bank. The question is: if this was really a report focusing on potential war crimes during the period of Cast Lead, what would the relevance be in focusing any attention on Israeli actions in the West Bank?

Judge Richard Goldstone: Well, the mandate related to violations in the context of Operation Cast Lead. For example, one of the areas we looked at were actions taken by Fatah, by the Palestinian authority, to put down pro-Hamas demonstrations during Operation Cast Lead. The assassination of Hamas members on the West Bank, the detention and torture of Hamas or perceived Hamas members – this reached a crescendo during Operation Cast Lead and were clearly human rights violations that were associated with it.

Rabbi Brian Walt: So, Brant, can we move on to the next set?

Rabbi Brant Rosen: Yes, absolutely.

Rabbi Brian Walt: We have one mass set and then some final questions. The last set focuses more on what you started with, which was so moving, your description about how you were asked --I didn't actually put this all together, that the person who asked you originally was herself South African, and then Nigerian – and the wrestling inside yourself about how you, as a Jew, speak out about Sri Lanka and China and all other countries in the world. And you were being asked to do something that challenging, which was about a country with which you had particular connection as a Jew.

We have several questions about this from the participants in this call, and I will just read you one that came to me. Do you think the fact that you are Jewish played any role in you being chosen to head the Commission? Did your Jewish identity play any role in your own experience of the investigation or writing the report? You answered that fully in the first part. But some people have criticized you for allowing yourself to be used, if in fact you were chosen to head the Commission partly because you were Jewish. There are people who are critical of you for having allowed yourself to be used by the United Nations as a Jew to help to do this

investigation about Israel, and thus giving them cover. What do you say to such criticism?

Judge Richard Goldstone: Well, I reject that completely. I don't believe I was chosen to lead the mission because I'm Jewish at all. Firstly, I wasn't the first person approached. I happen to have been the first person that insisted on and managed to get an evenhanded mandate. But I was chosen obviously because of the experience I've had with investigating war crimes. This was the reason. And my Jewishness obviously would have been taken into consideration by the President of the Human Rights Council, whose decision it was. But certainly, being Jewish, I would have imagined – if I were in his position – would have been more negative than positive. I think I would have been, if I were in his shoes, concerned – as I'm sure he must have been, and as I was – that being Jewish would make me unacceptable to the Palestinians. And the immediate reaction from Hamas was a negative one. One senior Hamas member rejected the mission because it was being headed by a Jew.

So the suggestion that I was, as it were, co-opted to – being misused or manipulated I really can't accept at all.

Rabbi Brian Walt: I wanted to ask: as a committed Jew, were you surprised by what you saw in Gaza? In what way did it differ from what you expected, and has it affected the way you think about Jews in Israel?

Judge Richard Goldstone: Well, certainly I was shocked. I've been shocked twice in my life in that context. The first was my first visit to Sarajevo after I became the prosecutor of the Yugoslavia Tribunal, where I'd read many reports about the damage done to Sarajevo and the bombing of mosques and so on. I'd seen video films of it but I wasn't prepared for what I saw when I was flown over it in a helicopter during the war. It was a really dangerous trip, but I couldn't believe mile after mile of absolute destruction.

And it came back to me on the visit to Gaza, because one can't drive a block in Gaza City or in Rafah or any of the other areas without seeing destroyed buildings, without seeing people living in makeshift tents. Because this is the one shocking aspect, as far as I'm concerned, and that is that the thousands and thousands of homes that have

been destroyed are still in the condition they were at the time of Operation Cast Lead some six months before we went there because no rebuilding can be done because of the blockade and no building materials are allowed in. So it was the extent of the destruction that shocked me.

Rabbi Brian Walt: And how has that affected the way you --?

Judge Richard Goldstone: Well, you know, it hasn't obviously affected my attitude to Israel. My love for Israel remains unaffected. I'm critical of the Israeli government. I'm critical of the leaders of the Israel Defense Force. I understand the position of the foot soldiers. They take instructions and pretty much are affected by the philosophy that is applied to them.

Rabbi Brant Rosen: To the extent that you're comfortable talking about this, the intense personal criticism that you're receiving now from Israel, from American Jews, and even perhaps from South Africans as well – could you reflect a little bit about how that affected you, if you expected this response, and how you understand the intensity of this attack?

Judge Richard Goldstone: Well, certainly I expected criticism. But I didn't expect the venom and the personal, what I consider really to be unfair, attacks. It's saddened me. It's upset me. It's the sort of thing that keeps me awake at night – and not only for myself, but even more for my family because this obviously has had a tremendous affect on them. They live in Jewish communities; one in South Africa and one in Canada, and this obviously has a very serious affect on them.

Rabbi Brant Rosen: Is this the first time you've experienced something in this regard?

Judge Richard Goldstone: No, no, it's not, not at all. I went through a very similar situation when I was investigating violence in South Africa, with huge criticism from many people in the white community – and in the Jewish community, who thought that what I was doing was unnecessary: why should a Jew get involved in these things? And that was still during the apartheid or towards the end of the apartheid era.

So there were also – I got typed letters and there were letters to newspapers criticizing me for doing this, not so much as a Jew but as a white South African.

Rabbi Brian Walt: And do you understand that, Judge Goldstone, to be somewhat similar in structure in that you were then being criticized because you were breaking with your racial group

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Judge Richard Goldstone: Breaking ranks – absolutely.

Rabbi Brian Walt: -- and now you're breaking rank with your tribe, with your people, the Jewish people?

Judge Richard Goldstone: Absolutely. And one's treated as a sort of traitor.

Rabbi Brian Walt: But that somehow your commitment to – not somehow, but your commitment to a universal ethic of human rights transcends those?

Judge Richard Goldstone: Well, absolutely. And this is why I admire what you're doing, because I think as rabbis it's very important to have that commitment to morality and to the norms – certainly I'm not an expert on Judaism or Judaic philosophy, but certainly I've grown up to believe that the Jewish tradition is a highly moral system and certainly one that recognizes the humanity of all people.

Rabbi Brant Rosen: You know, as Rabbi Walt and I have talked about this with one another, one of the things that occurs to us as rabbis is that there are these two Jewish values that often feel in conflict. One is this notion "Kol Yisrael arevim zela'ze" – that, you know, we have a responsibility to our tribe, to our people. And on the other hand, there's a very central Jewish value of *tzelem elohim* that all human beings are created in the Divine image and are worthy of dignity and justice. And how we as Jews work out that tension, I think, is very important. I'd love to hear if you have any thoughts about this – in your work, both as someone who's a committed Jew but also someone who is committed to universal human rights, if you feel that tension as well.

Judge Richard Goldstone: I understand that. But I think at the end of it, one's got to have one's own moral – one has one's own moral norms. And certainly, I hope that they're consistent with Jewish ethics and Jewish teaching.

Rabbi Brian Walt: We want to honor your timeframe. You gave us an hour and we're extending it a little bit and we're almost at the end, so I really appreciate you spending the time with us. If we can just go on a little bit with some final questions, is that all right with you?

Judge Richard Goldstone: Yes, absolutely.

Rabbi Brian Walt: Thank you. These are some final questions. A question was submitted to us by a rabbi who notes that it was submitted by his grandson, who's a student in international relations at Johns Hopkins and asked him to pose the question: how do you think your report, with its harsh condemnation of Israel for responding militarily to rocket attacks from an evacuated territory, affects the likelihood that the Israeli public would be willing to risk further withdrawals from any place in Palestine? And Israel has warned, the Israeli government has warned, along the way that acceptance of your report will damage – I'm now going beyond the question. Israel has warned that acceptance of your report will damage the peace process.

How do you respond to this charge, and how do you understand the connection between the pursuit of peace and human rights?

Judge Richard Goldstone: Well, firstly, I really strongly believe – and it's not just a fancy phrase – I really do believe that there can't be any enduring or lasting peace without justice. I think you're not going to get peace before victims are acknowledged – victims on all sides. I think that the victims of Southern Israel need acknowledgement. The evidence that was given to us in Geneva and the telephone calls – many phone calls were made by our staff to victims and people in Southern Israel to get their views. And we took advice as to whom we should speak – they were community leaders.

It's very important for them to get that acknowledgement. And it's saddened me that Israel has completely downgraded to the point of ignoring, I think, a pretty full treatment of the victimization and the terror caused by thousands of rockets and mortars to the people of Sderot and Ashkelon and other parts of Southern Israel. I think the people there need that acknowledgement. They've suffered grievously. Their children are in fear and terror every day of hearing air raid sirens giving them less than forty-five seconds to get into shelters.

You know, it's really amazing that the death toll in Southern Israel has been as low as it is. It's pure happenstance and luck. If one of those rockets had hit a kindergarten during school hours, the death toll could have been in hundreds. So it's really important, and I don't believe that you can really have a lasting peace until these things have been put on the table, looked at, investigated, opened, the people responsible being prosecuted or a form of truth and reconciliation commission, as we had in South Africa – it needs to be done officially. And you can't brush it under the table. You may get a ceasefire, but you're not going to get peace. And that's my firm belief from the experience I've had in South Africa and Yugoslavia and Rwanda and what I've read about and seen in Chile and other countries around the world.

As far as the Israeli public is concerned and stopping the occupation, this was a unilateral withdrawal from Gaza. So it wasn't done in pursuance of a peace negotiation or a peace treaty – it was driven by the politics of the situation. It wasn't done out of any motive of giving freedom or recognizing the right of self-determination for the people in Gaza at all. It had the effect of splitting Gaza from the West Bank and it was seen for what it was, a political maneuver. And if anybody thought that was going to bring peace and quiet from Gaza, obviously it wasn't. And I don't believe that there was ever any chance of that.

And as far as the Israeli government's attitude to our report inhibiting the peace process – I mean, this is a shallow and I believe false allegation. What peace process are they talking about? There isn't one. The Israeli Foreign Minister doesn't want one – at all. The whole question over one state or a two-state solution – you know, what peace process are they talking about that is going to be impeded?

Rabbi Brian Walt:

I think Rabbi John Friedman from Brit Tzedek was going to ask you a question in relationship to the future. Is that right, John? Are you still there? No? Okay. So I will ask it. The question is about the future of this report. What do you think now are the possible scenarios of what will happen over the next six months regarding the report and what do you think would be the ideal scenario over the next six months?

Judge Richard Goldstone: You know, I hate being a prophet. I don't have a crystal ball that I can trust. But certainly, it's my hope – if you ask me what I hope will happen, it's certainly

domestic inquiries in Israel and in Gaza. There seem to be more calls for inquiries coming from Israel, and I see one of the Kadima members of the Knesset has called for an inquiry today. And I just published an Op Ed in the Jerusalem Post, as I mentioned, and there's already a response from Allen Baker, formerly of the Foreign Office – who is, not surprisingly, highly critical of me, but ends off by also suggesting that there should be an inquiry, an investigation, in Israel.

If the Israeli government set up an appropriate open investigation, it would really be the end of the matter. That's where the report would end as far as Israel is concerned, certainly with respect to most of the recommendations we've made. The other recommendations I think should go forward. There are questions that we looked at of environmental damage done by Operation Cast Lead, and we believe that should be looked at by appropriate United Nations experts. And it's not only environmental damage to Gaza but also to Southern Israel, so Israel has got an interest in it.

But certainly, the heart of the report would become pretty irrelevant if there were a bona fide open investigation.

Rabbi Brian Walt: I want to just thank you. Brant, I think we're at that point, right?

Rabbi Brant Rosen: Yes.

Rabbi Brian Walt: I want to thank you so much, Judge Goldstone, for spending this time with us. I'd like to ask the people on the call to stay on the call. We have a few things we still want to cover about what we are going to do in relationship to this call. But I just want to say that for all of us it is such a gift. There are people on the call that are part of Tannit Tzedek, there are people who are not, there are people of different points of view on the call, and our intention was exactly what happened tonight – just to hear directly from you about your thinking about this and the values that informed you. And also the facts of the matter, because in the controversy there are a lot of charges being made that aren't necessarily true. And I can't thank you enough for your generosity in giving time to Tannit Tzedek and to our cosponsors and to the rabbis on this call.

Obviously we, as rabbis, are charged with being moral leaders of the Jewish people. And I know you along the way said you're not an expert in Judaic ethics and so on. I must say I disagree -- I think you're an embodiment of Jewish ethics, but that's my own particular evaluation of the work that you've done that I just find totally admirable and very inspiring in terms of your courage and your conviction about the idea that all human beings are entitled to human rights, and to protect an international humanitarian law that in some way draws a lot of its energy from the terrible experience that our people had during the Holocaust. So I really want to thank you so much.

Judge Richard Goldstone: Rabbi, thank you. Thanks to both Rabbi Rosen and Rabbi Walt for having set this up and for the most enjoyable hour and a quarter. I must say the time went very quickly.

Rabbi Brian Walt: Good. So if we could just listen to Rabbi Ellen Lippmann from Rabbis for Human Rights, Judge Goldstone, she is going to also bring us greetings. This is an organization of rabbis that is connected with a rabbinic organization in Israel. Rabbi Lippmann, are you on?

Judge Richard Goldstone: And Rabbi Lippmann, thank you for the work you're doing. I think it's very important.

Rabbi Ellen Lippmann: Thank you so much, Brian. At Rabbis for Human Rights in North America, we really want to thank you both, Rabbis Walt and Rosen. And Judge Goldstone, our immense thanks for this time. As Brian just said, we're honored to be able to be part of this. And we just wanted to let everyone on the call know that we are adding our voices to the call that you mentioned that's growing for an independent investigation in Israel.

We have written a letter that we will start to distribute tomorrow for signatures by rabbis across the country, from all streams of Judaism. It will be on our Web site starting this Wednesday at [rhr-na.org](http://rhr-na.org). And we are calling upon the State of Israel to appoint an independent commission to investigate allegations made about abuses that might have occurred in the conduct of Operation Cast Lead in Gaza because of your report. And the letter ends by saying to President Peres and Prime Minister

Netanyahu: "With the utmost respect for your leadership of our beloved state of Israel, we pray that you heed our call in the spirit of Isaiah's prophecy: Zion shall be redeemed through justice."

So we hope that everyone who feels that they're able on this call will sign this letter, either by going to our Web site or by receiving it from us or asking us to send it to you. And we are grateful to have this opportunity to hear from you and to therefore add weight to our call for this investigation. So thank you so much.

Judge Richard Goldstone: Thank you, Rabbi Lippmann.

Rabbi Brian Walt: Lastly, let me thank everyone who's been a participant in this call. They are rabbis, cantors, and rabbinical students. We really appreciate you being on this call, regardless of your connections to any of the organizations or of your particular opinion about this. We are committed to continuing this moral discussion in the community. We invite those of you who have not yet or aren't part of Tannit Tzedek, Jewish Fast for Gaza, to consider joining us. We'd love to have more rabbis involved in our work. We invite you to avail yourself of the resources on our Web site.

We also really want to invite you to write to one of us in response to this call, to Brant or to myself. And if you would like to post something, reflections in response to this extraordinary conversation that we've heard tonight, we would love to post those on the Web site as a kind of conversation between us as rabbis, how we respond to the issues that were raised tonight.

And lastly, let me say we are a totally volunteer organization so this is totally bli nadar. We will have an audio recording of this conversation probably up by Tuesday and we hope to have a transcript by Shabbat, but that's bli neder [without a promise]. And we hope also to catalogue the responses to this call, and if people have issues they want to raise for us to discuss between ourselves we would really value that greatly.

Brant, do you have something else? Otherwise, I'll bring it to an end.

Rabbi Brant Rosen: No. I just wanted to reiterate that we all come to this from different places, and even the cosponsoring organizations have their own unique missions. But I think the main point of tonight's conversation was to learn, and to learn from Judge Goldstone in particular. And he has been a very important teacher for us tonight, to clarify and to point us in a moral direction. And we very much appreciate that.

Rabbi Brian Walt: Thank you to everyone, and we all are joined in our deep commitment to making sure there is justice and peace for our own people and for all people. So thank you very much and good night.

Judge Richard Goldstone: Thank you very much. Good night to you all.

[End of recorded material]