

## **Exclusive MEMO interview with Colonel Desmond Travers – Co-author of the UN's Goldstone Report.**



**By Dr Hanan Chehata**

Meeting Colonel Desmond Travers, one of the four co-authors of the UN's landmark Goldstone Report, a year after the end of the Israeli invasion of Gaza was a fascinating experience. Sitting together in Dublin, he was clearly a man of strong convictions and he was very passionate about getting justice and accountability for the victims of war crimes.

He began by telling me a little bit about his military background and how it set him in good stead to be the lead military expert in the fact-finding mission looking at Israel's 22 day attack upon Gaza during Operation Cast Lead in December 2008-January 2009, in which over 1400 Palestinians were killed. The subsequent report, we now know, concluded that actions amounting to war crimes and potentially crimes against humanity had been committed by both sides in the conflict, but mainly by the Israelis against the civilian Palestinian population.

### **Military background.**

Born in the West of Ireland in 1941, Colonel Travers has had an extremely diverse and distinguished military career. He applied for a cadetship and joined the army on 23<sup>rd</sup> January 1961 at a time when, after many years of isolation, Ireland was becoming involved in international affairs primarily through the medium of UN peacekeeping. He began his military service in Cyprus, a period of his life which he recalls fondly, partly because that is when he got married. His vast experience in the Irish military has set him up well for his current involvement with, and understanding of, the Palestine-Israel conflict. He draws parallels between the duties he carried out in Ireland and the peacekeeping duties he later performed elsewhere.

After the Israeli invasion of Lebanon in 1987, which left South Lebanon devastated, Colonel Travers volunteered to travel to the region to take up the position of Military Observer. He and his family moved to Northern Israel, where they lived for two years and which he found to be a wonderful experience. His time there made him very inquisitive about the motivation behind violent attacks - why and how they happen - and this remained a fascination of his throughout his time investigating and observing the situation in Lebanon. It was by no means an uneventful posting and he was hijacked and captured by members of a Palestinian-Lebanese national movement as well as by Israeli forces.

Colonel Travers has commanded peacekeeping troops in Cyprus and Lebanon and served in the Balkans twice, in Croatia for one year and Sarajevo for another, where he was the Chief of Information and the Chief of Operations for an EU Monitoring organisation. Sarajevo was his final tour of duty. He became the Commandant of the Irish Army's Military College, The Curragh, and in 2001 retired from the Forces.



It was while he was trying to adapt to a peaceful retirement after a lifetime of military service that he got a call from a former Chief of Staff of the army who was the Executive Director at the Institute of International Criminal Investigation in The Hague. It is at this institute that investigators are taught how to carry out systematic and formal inquiries into war crimes. Travers was asked if he would like to take over the role of teaching a module on military affairs, an opportunity he jumped at. During his time teaching at the institute he also attended other courses there as a student, including international law and international humanitarian law taught by Professor William Schabas.



**HC - How important do you think it was for a military expert to be appointed to the panel investigating the assault on Gaza, bearing in mind that your military background gives you a greater understanding of weapons such as white phosphorus bombs, flechette shells, Dense Inert Metal Explosives (DIME) and so on?**

**DT** - There was also an overriding need to produce a kind of resume of the tactical operations that took place on 27th December. Why did such events take place? What was the rationale for occupying houses and for shooting people who came near them? What was the rationale for attacks from the North, the South, the East and the West? I had to produce a whole exposition on this and also to identify the [Israeli] units that had come into Gaza, which I did. So in reality, before I actually put my boot on the ground I spent six weeks researching Gaza and the conflict, and the first job I had to do when we four met with our lawyers was that I had to give an exposition of what I believed took place and I did.

**HC - Why did you agree to undertake such a contentious and monumental role? What was your motivation? Politics? Justice?**

**DT** - I had a very, very apolitical reason for doing this. If one teaches about war crimes, one has to be up to speed on current military operations. I wanted to see this so that I could produce a better product for investigators when I was giving lectures in The Hague later. I had no special romantic or moral agenda, I simply wanted to see how a modern, highly technically advanced army fought against an insurgency, because this is the new phenomenon. People are now saying this is the way it is going to be from here on out. Even the horrid word "asymmetric" has come into the conversation, which I reject entirely. It's a totally nonsensical word, but it's a big word so it impresses people. When I hear the Israelis saying, "How else can you fight an asymmetric war except by killing civilians?" immediately a razor sharp critique apparatus starts working in my head because it is a nonsensical phrase.

**HC - For those who aren't familiar with the Goldstone Report can you please summarise the main findings?**

**DT** - Well, before I can do that I have to tell you this; a literature search was carried out by ourselves and a team of lawyers and from that literature search we determined that a number of areas had to be investigated. For example, in the case of Hamas we would have to investigate the question of rocket fire into southern Israel. We would also have to investigate human rights' violations by Hamas against the citizens of Gaza, so there were two sub-issues under Hamas.



Then we had to investigate the Israeli military operations - land, sea and air - from 27<sup>th</sup> December 2008. We had to investigate Israeli ground operations, in other words when they entered Gaza on 3<sup>rd</sup> January 2009, and we had to try and determine the tactics in order to determine culpability or absence of culpability. If one gets caught in the line of advance one may be killed or injured and that includes non-combatants, I'm afraid. There is an acceptance of that. So the question was, were any of these casualties justified in law? So to do that we came up with 36 incidents that had been the subject of scrutiny before. In other words Amnesty (International), Human Rights Watch, Physicians for Human Rights and all of the other human rights organisations whose reports we had read that had more or less alerted us to issues that we thought to examine; we re-examined the major ones and we examined them across the full gamut of events. In other words, *hostage taking, felling of houses, destruction of the judicial police infrastructure, destruction of hospitals and the medical infrastructure, destruction of the agricultural, water and sewage infrastructure*, and we took packages and samples and we examined them. For that reason our report is as complete as could be given the timeline in which it had to be produced. Nevertheless, there were issues and incidents that could not be investigated as well as they might have been; for example, the blowing up of the tunnels, etc. It still bothers me because I think certain munitions were used there that ought to have been subject to analysis.

The main findings were that, after we examined a specific incident we determined culpability. *In all of the 36 cases we found against the perpetrators. In one case the Israelis admitted to a mistake. They shelled a house killing 22 people of the Al-Daya family and they said, sorry we meant to hit the house next door, but since they didn't fire a shell the following day at the house next door we didn't accept their explanation.*

*There was a horrific attack on a mosque (Maqadmah Mosque) when people were at prayer, killing and wounding a great many people* when a missile discharged tungsten micro-shrapnel; the Israelis deny ever firing it but there is nobody else on earth that could or did do it. So we ruled against that. So in all 36 cases we found no justification whatsoever for any of the incidents that we investigated.

**HC - The Goldstone Report has been the subject of both intense praise and harsh criticism since it was made public last September. How do you respond to critics who say that the report was biased from the start and that it set out to discredit Israel?**

**DT -** The best statement I can make about that is the one that Richard Goldstone made when an American spokesperson for the State Department said it was a very biased, flawed report and he said to them by way of response, *"Show us where the bias is and where the flaw is and we'll do our best to correct it."* *That invitation stands.* I have subsequently issued the same invitation in a Dutch newspaper and elsewhere; so far, no substantive critique of the report has been received.

Funnily enough, I did get a reply back from a most virulently, anti-Goldstone, pro-Israeli, right-wing, blogspot saying more or less, "Travers doesn't realise that various academics, politicians and military officers have written magnificent tracts disproving the Goldstone Report...", but they haven't. They've just written magnificent whinges.

*The attacks on two of my colleagues have been really horrific and they have included death threats. They have also targeted family members.*



So, what I'm saying is the critiques, if you go through them, would fill several times the volume of material compared to the report and ***none of them are valid. The tsunami of criticisms that have been slapped against the report funnily enough already started long before the report was published.*** Such early criticisms suggest, perhaps, an awareness of the guilt of the perpetrators; a question of getting one's retaliation in first, in a manner of speaking. ***They are signalling their guilt.***

**HC - A counter argument is made by others who say that the original mandate did not include the investigation of Hamas at all and it was solely intended to investigate Israeli war crimes. At what point did the mandate change, and why?**

**DT -** I believe it was a flawed resolution. In fact, the truth of the matter is, Richard Goldstone was consulted by the High Commissioner to produce a mandate that would be acceptable. He produced it and they said, OK, will you come on board, and he couldn't not do so. Of course, to be honest, there were various other people who refused and I'm glad because there was only one person who could have headed it up. In fact, ***the exposure that the report has received internationally, as you know, has been unprecedented.*** There has never been an effect like it before and it's not going away and it continues to annoy those who should be annoyed. I think it wouldn't have had that effect if it wasn't headed up by Richard Goldstone.

**HC - It has also been said that since the four authors of the report had previously expressed their own personal criticisms against the Israeli offensive, they were therefore coming to the mission with their minds already made up that Israel was guilty. How do you respond to that criticism?**

**DT -** No, that's not true. One member did co-sign a letter to The Times along with other academics. In fairness, the letter contained the word "aggression" by Israel and that was problematic but that letter had equally criticised Hamas. In reality, those who criticised my colleague, and there were hundreds of emails of criticism, only picked out that comment about Israel but if you read the letter in its entirety there's a side swipe against Hamas as well but everybody disremembers that.

**HC -** Had the other three of you previously made any formal statements that could be taken to indicate that you had a bias against Israel?

**DT -** No, no, never, never. In fact, ***the reason I think that they really savaged Richard Goldstone was because he's a Jew.*** They ignored me completely. They left me alone (before) although they have started attacking me lately.

**HC - The criticisms against Judge Goldstone have been very personal and public but you seem to have come out relatively unscathed. Have you been subjected to any personal attacks for your involvement in the report?**

**DT -** Yes, it was said that the "so-called analyst Travers is a fitting collaborator for Goldstone" because I made a very, very strong critique of the severe environmental damage that was being inflicted on Gaza. I mean Gaza, Gaza could fall apart, as a habitation. They said, "Travers now thinks he is an agronomist..."

**HC -** Yes, I read that. You said something like "the soil is dying" but surely you don't need to be an agronomist to see that the land is dying in some areas, a child could see that, you don't need to be an expert.



DT – You don't, you don't. The sea is even dying off the coast of Gaza.

HC - America and Britain reacted very negatively to the Goldstone Report. In the vote to pass the UN Resolution calling for investigations into the alleged war crimes, Britain abstained while America opposed the Resolution outright. Did you expect those countries to be so critical of your report?

DT - Can I come back a little bit on this? The very first public statement made by the American government, the State Department, while it criticised in its opening paragraph the Report for being flawed, on the third or fourth paragraph down they said nevertheless *Israel should investigate. Now that is the strongest statement America has ever made in its history about the state of Israel. It's the strongest criticism*, and in that, both myself and my colleague Professor Richard Norton of Boston University, who was a peacekeeper with me, we've both said, the abuse they heaped on the report in the opening paragraph allowed them to make this statement three paragraphs down. So, in reality, it was an amazingly important letter.

Britain did one extraordinary thing for which we must give the government credit. When our report was brought before the Human Rights Council in Geneva on 30<sup>th</sup> September 2009, Ireland was one of the few European countries to vote, whereas Britain and France abstained. *That was the most unprecedented action ever taken by two countries who are members of the Security Council and who are allies of Israel.* Remember the attack on Suez in 1956? It was France, Britain and Israel against Gamal Abdel-Nasser's army. So, *in abstaining, they made an extraordinary decision. They actually sent a message, I would say, of grave concern to Israel.* As did France.

HC – Most people I have spoken to see it the other way. They see it quite negatively in that America rejected it altogether and Britain abstained. Why didn't they vote to support your report? But you are seeing it in quite a positive light.

DT – If you get a diplomat to read it for you - I'm not a diplomat - you suddenly begin to see it in a totally different light. *That abstention was one of the most extraordinary decisions ever seen in the Human Rights Council.*

HC – I think public supporters of the report were disappointed that they did not do more to support it fully.

DT – Well, I'm trying to look at the positive side and a voting pattern that is unprecedented is something to take note of.

The court of world opinion has decided this Report's merits. Politicians and diplomats should take heed of that fact, no matter what they believe their governments want them to do. *Israel has been frightened severely by this. It wandered around Europe begging Europe not to impose sanctions on it. It's jet-setting around the place. They are now on notice as far as I am concerned, that they want to think twice before they try on another similar act again.*

*Did you hear [Israeli Prime Minister] Netanyahu make this statement, "Israel has three problems, three enemies, Iran, Palestine and Goldstone"?*





**HC - You have stated previously how proud you are that Ireland voted in support of the UN Resolution but how do you think your involvement in the report has been received generally in Ireland?**

**DT -** The strangest thing, I think, if you go back and look at Ireland's history and its dealings about the Middle East, is that there was a traditional feeling of being sympathetic to Israel and we were very, very proud in the 1980s and 90s that the President of Israel was from Ireland [Chaim Herzog]... when he was interviewed he spoke with a strong Irish accent. A lovely man, a very nice man. But anyway, because so many Irish soldiers had been killed by Israelis, (some too by Palestinians and/or their Lebanese cohorts), with a significant number who were taken out deliberately and shot (in South Lebanon), slowly but surely, the body-bag phenomenon came into effect, and suddenly *Ireland is now perceived as almost entirely pro-Palestinian.*

**HC - The Goldstone Report has already changed the political and legal landscape in terms of international relations and universal jurisdiction. As a result of your report many Israelis are now afraid to come to Britain because of the very real fear that they will be arrested for war crimes. Israel is also putting intense pressure on European countries to change their domestic laws to protect Israeli war criminals. How do you feel about all of this being an outcome of your report?**

**DT -** Well, I mean in some respects international humanitarian law and international human rights law is constantly evolving and *I think the Goldstone Report will probably be a milestone on that evolutionary process in the right direction.*

Now funnily enough there has been a counterblast from some of the theorists of asymmetric warfare mainly coming from Israel and mainly coming from the United States, which says fighting against insurgents in urban areas is so difficult for modern armies that there must be a relaxation of the rules of war to tolerate the killing of civilians. This is outrageous, particularly coming from countries that should have a certain familiarity with the horrors of World War I and II. So that's the counterblast and of course the rationale for relaxing the rules of warfare to accept the killing of civilians is also a tactical nonsense because if you kill somebody from your own side you are losing popular support, if you kill people from the insurgents' side you are creating martyrs. I mean it always served the IRA's purpose when the British would overreact and kill somebody and in fact the martyrdom culture is very strong in the Islamic tradition as well as the Irish tradition. You'd be a foolish insurgent if you did not optimise the death of a colleague and turn him into a war hero.

**HC -** What do you think about the fact that many Israelis are now afraid to come to Britain for fear of arrest warrants? Do you see that as a positive step?

**DT -** While this may have a desirable deterrent effect on other would-be adventurers, isolation of itself is not a good thing in terms of keeping the community of nations together. *But it's a necessary process.*

**HC -** There have been some major developments in that when Tzipi Livni tried to come to Britain recently there was an arrest warrant issued...

**DT -** Correct and there was a General who had to stay at Heathrow on his plane and then fly home again. *I think it's fantastic. Let militaries all over the world take heed and politicians take heed of this fact, that their holiday travel arrangements might be severely curtailed if they do naughty things!*



HC - I understand that Israel refused to co-operate with your investigations but that Hamas did co-operate. Can you tell me a little bit about the extent of the co-operation that you received from Hamas?

DT - First of all *they didn't impede the public inquiries we instituted in Gaza. They didn't intimidate. They met us twice themselves. We had major conferences with all of their functionaries.* It was in everyone's interest in Gaza to facilitate our enquiries, Hamas included. This was because the military actions were so punitive on the civilian population – so over-the-top if you will – that it was more likely than not that our findings would reflect that fact.

HC - *Was there any evidence of Hamas intimidation?*

DT - *None whatsoever.* However, I have to be honest and say that we would probably have found it difficult to get people to queue up and give us information about Hamas' misbehaviour within Gaza

HC - *So Hamas cooperated fully with your investigation?*

DT - *One hundred percent.*

HC - If Israel did not co-operate with you in your investigations, where did you get your evidence that Hamas was also potentially guilty of war crimes? How did you corroborate allegations such as the human shield argument?

DT - *We found no evidence for the human shield phenomenon* but, to be honest, I did expect to come across it.

HC - So who made these allegations (against Hamas) in the first place?

DT - The Israelis.

HC - But if they weren't co-operating, how did they tell you about it?

DT - It was in the media reports. They made no formal statements. Here's a little thing nobody has ever raised and I want you to think about this. There were functionaries in combat uniform and in civilian attire, Arab speaking, operating in Gaza. These were *Israeli combat troops specially trained to operate in the Occupied Palestinian Territories in civilian attire. They worked as 'franc-tireurs' (literally "free shooters") and could have been in a position to cause confusion among the population.* It is for this reason that if there was evidence of Hamas intimidation of any kind, it would have been necessary for me, an investigator, to determine by identification who the perpetrators were.

The Israelis themselves have admitted it; if you go to military websites, there are reams of stuff about *special Israeli combat troops trained to work in the West Bank and in Gaza infiltrating into the area and working behind the scenes before, during and after the actual ground invasion.* What I'm saying to you is, if somebody tells me there is a Hamas operative doing something on some street corner I have to ask, can you identify him for me because, we don't know.



**HC - Your report says that Hamas used indiscriminate attacks - partly because of the imprecise nature of their rockets. However, they are a people under occupation and these crude weapons are the only weapons that they have; our understanding of international law is that the right to resist using all available means is enshrined therein, so did the enquiry take this into account when looking into the issue of indiscriminate attacks?**

**DT - International humanitarian law does not justify indiscriminate firing into civilian areas. It's as simple as that and we judged that accordingly. There were also mortar attacks and I studied the mortars that they used and the rockets and they would have been highly imprecise.**

**HC - But the fact that they have no other weapons and they are under occupation... don't they have a right to self-defence under international law and to resist by all available means?**

**DT - Yes, I mean, *once the military invasion operation started, the citizens of Gaza had a right to defend themselves.* There is a thing in international law called *levee en masse* which is a public response which justifies even a civilian who is theoretically a non-combatant to come to arms to defend his or her area. That is accepted and in that law *Hamas, or anybody else, who has weapons has a right, more or less, to rush to the barricades, it's as simple as that.* And in fact I only came across two incidents of where there was an actual combat situation, in other words where there were Hamas operatives and there were Israelis, and the reason I came across that was quite simply because the Israelis had got a 59 year old man and made him go into this house where there were three Hamas operatives in hiding, repeatedly, because they wouldn't go in themselves. *This human shield tactic, known among the IDF soldiers as the "Johnny" or "Good Neighbour" tactic* brings me to another point. *It was practiced and applied in all the Israeli brigade areas in Gaza and is strongly indicative of prior training.* It does, however, also reveal an emphasis in that training on "risk aversion". This aversion in turn imposed the transference of such risk onto the civilian population be they women or children. This is very troubling for various reasons but one in particular to me, an ex-soldier, and it is this: *What is an army that commits its soldiers to avoidance of risk? Whatever it is now, it is no longer an army, in my view.***

**HC - You said in another interview that you "found no evidence that Hamas used civilians as hostages. I expected to find such evidence but did not. We also found no evidence that mosques were used to store munitions. Those charges reflect Western perceptions in some quarters that Islam is a violent religion." Do you think that it is this kind of negative stereotyping of Islam and Palestinians that has caused so many people to raise objections to your report?**

**DT - *It astonishes me the degree to which the Western world have come to accept the idea that Red Crescent Ambulances are military trucks for ordnance and that mosques are repositories for military material.***

I was actually upbraided, when I came before the Irish government's Foreign Affairs Committee, which is a public forum; I was upbraided by the only Jewish member of Parliament in Ireland because when I said we found no evidence of mosques being used whatsoever, he said, "How many mosques did you examine?" And I said that I had examined two, because they were ones that had been struck by missiles, and he said, "But did you examine any of the mosques that weren't struck?" ***In other words, if I had not examined all mosques I had not provided a sufficiency of proof that they were ALL free of weapons...***





Let me just give you an example of where I see it. *Very few people have taken on board the implied negative stereotyping inferences about mosques and Red Crescent ambulances* but let me give you a case in point. It couldn't be applied elsewhere. During the height of the troubles in Northern Ireland *if a British public figure or a military figure had said, "Catholic Churches are warehouses for Semtex", there would have been an international outcry, especially in the Catholic world, over such a slur.*

HC - Double Standards.

DT - Totally, totally. And then when, for example, you see photographs of weapons caches found in mosques, like ones taken in the Zaytoun area where the Israeli Giv'ati Brigade went in - and demonstrated a particular enthusiasm for brutality and racist abusiveness in their operation in that area - I would say that *unless they can give me absolute forensic proof, I do not believe the photographs.*

HC - Last Tuesday's Newsnight programme had a film report of Colonel Tim Collins visiting Gaza "to give a soldier's verdict". He visited a mosque that you had previously investigated and said that in his opinion there was evidence of secondary explosions in the basement of the mosque which was an indication that it had been used to store weapons. This is not the conclusion that you came to. What do you think about that?

DT - Colonel Collins, a fellow countryman, is a most distinguished soldier who impressed all with his address to troops prior to the Iraqi invasion. He has subsequently carved out an impressive career for himself in the area of televised military history. *His speculation about a mosque being a repository for materiel a year after is therefore a lapse of good judgment in my opinion. His comments are so much in breach of good evidentiary procedures that I'm sure he knows he lapsed. To serve the propaganda interests of one belligerent over another ill serves his otherwise fine reputation.*

No self-respecting insurgent with abundant hideaways in the labyrinthine alleyways of Gaza would dare store anything in an open building like a mosque which had been pre-targeted and pre-registered by Israeli intelligence anyway.

Of the several photographs that were on an Israeli website that I examined showing weapons and munitions "found in mosques", *I found all of these photographs to be spurious in the extreme! Collins made statements he knows to be unsound. He has to know. He's a decent soldier, he has to know this is drivell*

*Britain's foreign policy interests in the Middle East seem to be influenced strongly by Jewish lobbyists.* I find it interesting that the two former military officers quoted in the media in defence of Israeli military actions in Gaza are both British. Colonels Tim Collins and Richard Kemp, both distinguished soldiers, seem not to be embarrassed in the least while making statements about the fighting competencies of another army – one they seem to know little about.



**HC - You have given both sides six months in which to conduct their own investigations into the alleged abuses. The deadline in February is fast approaching. Can you tell me, as far as you know, how far both sides have gone to meet your requirements?**

**DT -** No, in fact the only inference to any investigation is the [New York Times](#) article<sup>i</sup>, which if it is correct in the areas which the Israelis claim to be investigating *is going to produce nothing new or of value in my opinion.*

The sad thing about the investigation on the other side is that the (Gazan) judicial police infrastructure was largely destroyed by the Israelis; they targeted and destroyed police stations and so on... and so even if Hamas wanted to investigate they probably could not do it to an acceptable standard.

**HC - What do you think will be the logical conclusion to your investigation? Do you envisage the findings of the Goldstone Report getting as far as the International Criminal Court in The Hague?**

**DT -** *Efforts to muddle the report and to block it have failed. The court of world opinion seems determined to see the report prevail* and therefore we must be hopeful that this process continues to achieve one or other of the recommendations in the report's findings with respect to the ending of impunity.

**HC - Which recommendations are you referring to specifically?**

**DT -** We had a series of recommendations which were the International Criminal Court, self-examination and so on, so one or other of the report's recommendations with respect to the ending of impunity. Justice Goldstone has always held, and I'm entirely in agreement with him, *that to bring a lasting and just peace to the Middle East, there must first be an end to impunity. That's what this report was all about.*

**HC - The Israeli army claims to be one of the most moral armies in the world ("purity of arms"). The findings of your report, among many others, have obviously gone some way to destroy that image and yet they still continue to deny any wrongdoing on their part. Do you think the IDF need to reassess the way that they operate, particularly in their interaction with civilians?**

**DT -** *I think the armies of the world have to re-evaluate the tactics employed which were very obviously rehearsed and practised at length by the Israeli army before they entered Gaza* in the efforts to develop a viable urban warfare manoeuvre. *Particularly those which use hostages and the indiscriminate shooting of people approaching posts is deeply troubling* because it calls into question not only actions which are in breach of the Conventions but it also calls into question the nature of military activity. In other words, we come back to the question of risk aversion. *A risk-averse army is not an army. It's a civil service in uniform.* A risk-averse army cannot win against an insurgency.



**HC - Israel claims that its attack on Gaza was based on self-defence. In your opinion is their claim of self-defence enough of a reason to justify their attack on Gaza last year?**

**DT** – No, I reject that entirely. No, my first sentence is that Israel, like every other country, has a right to defend itself. However, it should be borne in mind that the number of rockets that had been fired into Israel in the month preceding their operations was something like two. *The Hamas rockets had ceased being fired into Israel and not only that but Hamas sought a continuation of the ceasefire.* Two had been fired from Gaza, but they are likely to have been fired by dissident groups.

**HC** – For how long had there been a ceasefire?

**DT** - From June [2008]. And Hamas sought an extension of the ceasefire with Israel and Israel said no. To be honest, Israel might have had a very good reason to refuse an extension of the ceasefire because we all know, in the counter-insurgency world, that ceasefires are opportunities for insurgents to re-arm and re-equip but unfortunately they have never offered that as an explanation, but it is possible, if I'm trying to be fair to them [the Israelis].

**HC** - You make a good point. It is always said by Israel that the invasion was based on self-defence, that they couldn't live with the constant rocket fire into areas such as Sderot but if you are saying that there had been a ceasefire since June then... self-defence is normally instinctive, it's automatic, in direct reaction to something, but if the rockets had been fired so many months previously where is the self-defence argument even coming from?

**DT** - *There isn't one.*

There are also other overarching issues. We determined, and we were not alone in determining, that Gaza is occupied territory. I would go further and say that *the land, sea and air that they breathe is more or less determined by the occupier and the quality of it and it's deteriorating.* Don't you agree?

**HC** - Absolutely, there is no doubt about that. It's incredible, somebody made the point recently that the people were imprisoned in Gaza first and then they were attacked. They had nowhere to run. In other countries, during other wars, people can at least flee to neighbouring countries but when you have a country under siege and *then* you attack, they are trapped in a cage, where can they run to?

**DT** - There is something Kafkaesque about this whole business of dropping leaflets on Gaza. [Israel had dropped leaflets from aircraft telling some of the people of Gaza to leave their homes before they were attacked and bombed by Israel.] Let me tell you something that hasn't been said before. People had nowhere to go. *The constant mantra amongst those we interviewed was "we had nowhere to go".* Nevertheless, families that did relocate were targeted and I'll tell you why, because families who went to relatives in areas where traditionally Israeli troops hadn't been before, the routes of attack were more or less similar to routes of attack in the past; mainly from the North, the Northeast and the South; standard routes of attack. People who lived on those routes, avenues of attack, in some cases moved where they could, when they could, but in doubling or tripling the occupancy of the house of a relative, the thermal signature would be picked up by



unmanned aviation vehicles or UAVs (which) sent a message that this place is packed with people so they dropped missiles on them.

In other instances *where people's houses were occupied and they were driven out of their houses, they were told to go to Gaza and on the way they were shot.* So the leaflet argument has no validity on a variety of fronts.

**HC** - When I was in Gaza a few weeks ago some leaflets had reportedly been dropped again and a bomb was dropped while we were there, which was not reported in the mainstream press of course, but it is still happening.

**HC** - Did your report find the Israeli politicians and military leadership culpable of war crimes?

**DT** - Well, in fact, it was Professor Norton who drew my attention to it more than anything else in conversation, *there were extremely aggressive statements made about what the Israelis would do when they went into Gaza made by Tzipi Livni and by the Minister of Defence and by several generals and some academics. Those statements are incitements of war crimes in their own right.*

Do you realise now that *there is a very fervid Rabbinate in the military?* For the first time ever the Rabbis travelled with the combat troops and this is a new and troubling development. It is also reported that the Rabbis in the Israeli Defence Forces have on occasion challenged the authority of military commanders. This must surely be a development that has negative consequences for good order and respect for authority in the Israeli army.

**HC** - Much of the British public seem to have reacted very favourably to the findings of the Goldstone Report and have been moved to campaign against Israel by taking part in Boycott, Divestment and Sanctions (BDS) campaigns, protests and so on. How best do you suggest the public now demonstrate their support for the Palestinian people and the findings of your Report, as well as their condemnation of Israel?

**DT** - I think they *(the public) have to be alert to the insidious anti-Islamic inferences* that legitimise, down the road, actions that would not be tolerated any place else in the world. For example, when I was in Lebanon there was a standard accusation that Red Crescent ambulances were ammunition carriers for Hisb'Allah. So what did they do when they got to Gaza? They knock out 29 ambulances, kill 16 ambulance crews and injure 19 and the West doesn't even rate it! Ergo, now that mosques (are seen as) a place for ammunition, next time they'll hit all the mosques in Gaza and the West are going to say, oh well, we've been prepared, we've been conditioned, we know mosques are ammunition warehouses.

The fact that they firebombed Al-Quds Hospital means that it was just an extension of the ambulance park outside that they had levelled. *You know that they drove Merkava tanks over ambulances?*

*So I would be saying to young people, it's time we gave the same courtesy and civility in our determinations of guilt or innocence to the persons of the Islamic tradition just as persons of the Judeo-Christian traditions have come to expect such considerations.*



**HC - The Goldstone Report urged the release of Israeli soldier Gilad Shalit but does not mention by name any of the thousands of Palestinian civilian men, women and children held in Israeli jails. Why is that?**

**DT -** We got immensely disturbing presentations from human rights organisations, at least two, one with respect to children and one with respect to prisoners, especially when we were in Amman, and ***we were extremely disturbed by the treatment, illegal detention, torture and abuse of women and children and men,*** and I think we have said something in the report.

I think one of the reasons we emphasised Gilad Shalit was that we felt during the course of our deliberations that ***the subtext in the raison d'être for going into Gaza by the army was the hope that they could release him.*** It was never mentioned this time (because when they attempted to release two Israeli soldiers in Lebanon in 2006 they failed dismally), and if I was an Israeli military man and I was trying to rescue Gilad Shalit I would never say "I am going to rescue Gilad Shalit" because if you fail, you look like a fool or if you accidentally kill him in the shelling... That's why I think he was significant.

**HC -** Do you think that was one of their reasons for going into Gaza?

**DT -** Absolutely, yes. In fact, in their interrogation of the people they rounded up, ***there was always one question in the interrogation: Do you know the whereabouts of Gilad Shalit?***

**HC -** And that was the interrogation of the... ?

**DT -** Ordinary Palestinian women and children, and also ***an invite with a sum of money*** if they could give information; some of this was put on their mobile phones as text messages. If they could give any information leading to the release of Gilad Shalit, or his whereabouts, a sum of money would be... and the sum is indicated, ***I think... two million dollars.***

**HC -** Was this during the 22 days last year? The interrogations?

**DT -** Yes, women and children who we interviewed and who were detained. If you look at the sandpits incident in our report, the sandpit detention centre, ***people who were taken out of there and interrogated and brought into Israel for interrogation; which by the way is another crime,*** being taken out of your own country. We saw this as proof positive that Shalit was more than just a prisoner of war.

But you know the perverse thing about it is when we sought to give him the status of Prisoner of War, we did so for the purpose of ensuring that he would get the entitlements of a POW, but his father wrote us a letter complaining, saying that he is not a POW, he was captured by an illegal organisation, etc.. Although I can understand the father's position, our position was trying to be scrupulously fair and, incidentally, under international humanitarian law we determined that he was a POW because of Gaza being occupied territory and because the attack on Gaza was a war.



**HC** - Well, I don't know if we should call it a war. It was an invasion, it was an attack, it was one armed side against a primarily unarmed civilian population so is it fair to use the term "war" in that context?

**DT** - Probably not but that would be a matter to be determined by jurists. But what I would like to see is, a term used as a consciousness raising issue. *Gaza has now come into the history books in the same way as Guernica, Dresden, Stalingrad. Gaza is a gulag, the only gulag in the Western hemisphere; maintained by democracies; closed-off from food, water, air.*

**HC** - Absolutely. Let's go back to Gilad Shalit for a moment. By naming him, you say that, in a way, you were trying to address one of the causes of the invasion, but on the other side there are still thousands of men, women and children and not one was mentioned by name. You only mention one name, on one side, (Israel's) and he is a soldier, whereas on the other side they are civilians. He was given prominence over all of them.

**DT** - I think mainly it was because of the realisation during our interviews amongst those who had been interrogated that the Israelis were very, very anxious to get his release.

**HC** - But then don't you think it is playing into Israel's hands to mention the things that they are concerned about and not the other side? Do you not think that, in a way, you were trying to appease them?

**DT** - Can I come back to the question of Palestinian prisoners? *When the Palestinians sign up to, say, the release of Shalit for 2000 Palestinians, they degrade their own value system. They ought not to do that. But then no civilized country ought to detain 8000, is it 8000 Palestinians? Very nearly 9000.*

**HC** - I think the most disconcerting thing to me is the number of child prisoners. A child throwing a stone at the [Israeli apartheid] wall can get up to 20 years in jail, which means that the Israelis attribute more value to an inanimate object than they do to a human life, which is crazy.

**DT** - *The treatment of children in this fashion is unacceptable.* One human rights representative seemed to accept that it was understandable that the Israeli security forces had a right to take this kind of action when children throw stones at them. I explained that the British Forces in Northern Ireland had the same issues to contend with and never had to resort to such measures. Nevertheless, they won! Further, a soldier who takes issue with a child for throwing a stone demeans himself.

**HC** - All standards of international law are against the arrest, detention and torture of children and...

**DT** - All I can say is that it is *unspeakable, outrageous. Some of the items described to us about the detention of children are very, very, very troubling.*

**HC** - And yet the governments of the world are not doing anything about it and I would hope that this will be investigated further.





HC - Finally, were you surprised by the level of hostility towards the report generally or were you expecting it?

DT - What I found was that the quality of the criticisms was appalling. Nevertheless, they self-perpetuated. If it was from an academic or a political or a senior military figure it would tend to regurgitate every now and then in a different shape or form or in a different blog or email or website or newspaper. *So the obvious PR strategy by those who would defend Israel at all costs was to keep slinging mud in the hope that sooner or later the sheer volume of it would stick or wear people down.*

HC - But as you said the actual level of the critique was...

DT - *Zero, non-existent.*

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<sup>i</sup> The New York Times, *Israel Poised to Challenge a U.N. Report on Gaza*, 23<sup>rd</sup> January 2010.

