

## **Operation Cast Lead:**

### **Legal and Doctrinal Asymmetries in a Military Operation**

#### **1.**

#### **The Goldstone Report**

In April 2009 the President of the Human Rights Council established a United Nations Fact Finding Mission on the conflict in Gaza. Its mandate was:

“to investigate all violations of international human rights law and international humanitarian law that might have been committed at any time in the context of the military operations that were conducted in Gaza during the period 27 Dec 2008 and Jan 18 2009, whether before, during or after”<sup>1</sup>

The members of the Mission comprised Justice Richard Goldstone, South Africa; Prof Christine Chinkin, LSE, United Kingdom; Ms Hina Jilani, Pakistan and the author.

The Mission interpreted its mandate as requiring it to place the civilian populations of the region at the centre of its concerns regarding violations of international law.

The Mission carried out its investigations on site in Gaza and also interviewed witnesses and held public hearings there, in Amman, Jordan and in Geneva. Witnesses from Gaza, Southern Israel and The West Bank participated in these hearings. Expert witnesses were also called in Geneva.

The Mission sought the cooperation of the Government of Israel but this cooperation was not forthcoming.

The author’s paper here is drawn extensively from the Fact-Finding Mission’s report which has come to be called the Goldstone Report. It will be referred to here and footnoted especially with regard to the operations and events that took place during Operation Cast Lead (OCL) and with regard to all findings and determinations that followed from those findings.

The Goldstone Report was submitted to the Human Rights Council on 15 Sept 2009. Since then the United Nations General Assembly (GA) and the European Union have separately voted that the parties to the conflict should institute investigations into the conduct of their respective soldiers and functionaries during these operations. The GA has requested a report of such

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<sup>1</sup> “Human Rights in Palestine and Other Occupied Arab Territories: Report of the United Nations Fact-Finding Mission on the Gaza Conflict”, Page 13.

proceedings by July 2010. The Human Rights Council has caused a technical body to be formed to examine the Goldstone Report in order to further determine aspects of human rights law and humanitarian law and to report back to the Council by Sept 2010.

The purpose of this paper is to examine doctrine, essays or theories which were mooted prior to OCL and which were known to have influenced this operation in some way. Some of this doctrine has already been mentioned in the Goldstone Report. Such doctrine will be referred to here again where there is evidence of its continued influence in Israel or elsewhere or where there is a perceived need to raise concerns about it.

The article on “Targeted Assassinations” which though published prior to OCL was not known to have been influential in the development of OCL rules of engagement until later. The author perceives it to constitute a challenge to the Conventions and to counter-insurgency warfare best practice.

There have been other challenges to the Goldstone Report or defences of OCL and these mainly rely upon arguments surrounding considerations of asymmetric warfare especially in urban settings. The author takes issue with these arguments both from the law of war perspective and from the tactical or counter-insurgency (COIN) perspective.

Finally, the Government of Israel has published its own findings on OCL<sup>2</sup>. This may have followed an invitation by Justice Goldstone in which he stated that if there were any fact or finding in the Report that was in error or needed review that the Mission would re-convene to do so. Nothing in the Government of Israel report or indeed in the statements it released with regard to certain incidents (the attack on the Makadmah Mosque, the bombing of the Al Daya family home and the bombing of the Al Bader flour mill for example) have caused the Fact-Finding Mission to review its position.

## 2.

### Gaza 27 Dec '08 – 18 Jan '09

**Operation Cast Lead** (OCL) was the name given to the Israeli Defence Force (IDF) all arms, operation that took place in Gaza from 27 Dec '08 to 18 Jan '09. The mission was stated to be threefold: to destroy Hamas rocket sites; to capture Hamas operatives and to kill or capture the Hamas leadership<sup>3</sup>.

Between these dates, there were four identifiable phases of OCL; a bombardment phase, a ground assault phase, a consolidation phase and a withdrawal phase.

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<sup>2</sup> “The Operation in Gaza: Factual and Legal Aspects”. The State of Israel, July 2009. (159 Pages).

<sup>3</sup> Janes Sentinel Services, March 2009

The bombardment phase<sup>4</sup> involved the use of most of the IDF's assets, its ground artillery, its naval fire but primarily air delivered munitions. Much of the destruction was affected by JDAMs (joint direct attack munitions) delivered by F16 aircraft and by missiles fired from Apache attack helicopters and armed drones. The patterns of destruction suggest a concentration on infrastructural facilities: Gazan administrative facilities, the justice ministry, police stations and prisons; schools, hospitals<sup>5</sup>, mosques<sup>6</sup>, factories and industrial facilities. An enduring feature of the operation shown on tv screens worldwide was of white phosphorous (WP) artillery shells exploding and scattering their burning felt wedges over the Gaza skyline. Bombardments did continue throughout the other phases to follow but were in support of the ground troops or were a continuation of a bombardment plan.

The ground assault phase commenced on 3 January with assaults along three axes; in the North by a combined airborne brigade and armoured brigade into the El Atatra area of North Gaza; in the East by the combined Golani Brigade and an armoured brigade into the Jamaliya refugee camp area and in the South-East by the Giv'ati Brigade and an armoured brigade into the Al Zeitun area of suburban Gaza. A lesser assault by a brigade (-) took place in southern Gaza in the vicinity north of the disused airfield north of Rafah city.

In some, if not all cases, these assault axes seem to have been along previous attack routes. Houses commandeered as strong points were the same ones used in previous attacks or incursions. Objectives appear to have been limited to the outskirts of the city and were achieved, seemingly without resistance, within one or two days of the commencement of the attack. Hamas defence strategies were in keeping with classic insurgency tactics in an urban theatre - withdrawal before an attacking force in anticipation of attrition being effected by IED's (improvised explosive devices) and by the later isolation of units which could then be engaged piecemeal.

The consolidation phase was purportedly devoted to house clearing operations combined with searches for Hamas munitions and manufactories. Given the lack of evidence of success of these searches, much of the unabated destruction may have been for the purpose of clearing arcs of fire for strong-points, for the creation of security zones for armour and for the denial of defence, ambush or infiltration routes to Hamas. The lessons of history were lost however, if this latter purpose was the reason for this action. During WW 11, destroyed buildings and destroyed urban areas gave defenders a greater advantage. The bombing of Monte Casino for example, made it easier for the German defenders to hold out against the Allied assaults<sup>7</sup>.

The withdrawal phase was characterised by the continuation of the destruction of the Gazan infrastructure and concerned itself with the bulldozing of houses, manufacturing facilities, farms and farm-land. The means most often employed was the D.9 armoured bull-dozer, some one hundred and ninety of them having been brought into Gaza. This operation, known to the IDF

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<sup>4</sup>The Report, P.87, Part B The Phases of the Hostilities. 1. The Air Phase, Paras 333-337. The ground phases are at Paras 338-351.

<sup>5</sup> Al Wafa and Al Quds Hospitals.

<sup>6</sup> Al Aql and Makadmah Mosques.

<sup>7</sup> Andrew Roberts, "The Storm of War: A New History of the Second World War", London 2009, P. 388.

soldiers on the ground as “*for the day after*” destroyed, wholly or partially, factories, habitations, farms, orchards, agricultural wells and food processing plants.

The three week operation left a trail of destruction in its wake.

Casualties: 1,387 killed and some 5,000 wounded.

Houses Damaged or Destroyed: 3,354 destroyed and 11,112 damaged

Hospital and Medical Facilities: 15 hospitals damaged (out of 24), 43 health care facilities damaged (out of 110), 29 ambulances destroyed (19 crew injured and 16 killed).

Mosques Damaged or Destroyed: 7.

Educational Facilities, Damaged/Destroyed: 280 schools, 6 university buildings.

Factories and Workshops: 1,500 destroyed.

Police Facilities: 74 destroyed including the Ministry of Justice building and the prison

Farms Destroyed: 113

Land Damaged/Destroyed: 11,389 dunums<sup>8</sup> .

While different figures are given by other sources, the figures used here are those as given in the Goldstone Report.<sup>9</sup>

The emphasis on risk aversion seems to have dominated ground operations and this may have given rise to the high levels of destruction, hostage taking and shooting of civilians. Insights into operations derive from disclosures by soldiers in “Breaking the Silence”<sup>10</sup>. The greater number of these insights were from soldiers at the lower formation level such as section, platoon and company and who, in the main, were reservists.

The call-up of reservists, during the consolidation phase, would seem to have been for the purpose of resting and rotating regular troops while also offering those reservists a less intensive form of experience. It may also have been for the purpose of testing call-up responses and general preparedness. The “Breaking the Silence” disclosures would of course have been an unanticipated consequence of the call up.

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<sup>8</sup> The Dunum (Turkish word Donum, borrowed in Arabic as Dunum and in Hebrew as Dunam ) is a unit of area measure used in the Middle East to measure land, in countries formerly a part of the Ottoman Empire. In most countries it is 1000 square meters, the metric dunum was adopted in most countries after World War I. A donum is one tenth of a hectare.

<sup>9</sup> The Goldstone Report is the name now popularly given the report titled: “UN Fact Finding Mission on the Gaza Conflict”, (Ref. GE.09-15866. A/HRC/12/48 of 25 Sept 2009). It will be used throughout this paper to denote such report.

<sup>10</sup> “Breaking the Silence: Soldiers’ Testimonies from Operation Cast Lead, Gaza 2009”, Jerusalem 2009.

### 3.

#### The Dahiya Doctrine

**“... is a campaign that is making progress and had better be taken seriously by us all..”**

[Jeff Halpern, “The Second Battle of Gaza: Israel’s Undermining of International Law”]

#### General

The IDF operations against Hisb’ Allah in Lebanon in July-August of 2006 were considered to have been a failure. The rescue of two captured soldiers was not achieved and the IDF lost some fifty armoured vehicles in engagements in South Lebanon when they encountered anti-armoured directional IED’s. These devices had devastating effect. Their use in Lebanon would largely inform IDF attack tactics when entering Gaza.

During the former conflict great destruction was inflicted on the Lebanese infrastructure<sup>11</sup>. Beirut airport, the oil-refinery in Saida and virtually every road-bridge in the country was destroyed. Among the habitations destroyed were the apartment complexes in South Beirut, home to a largely Shi’a community traditionally supportive of the Hisb’ Allah movement. The district, Dahiya, gave its name to a new IDF doctrine which was to be applied to future operations.

The Dahiya doctrine is best described in a statement announcing it by GOC Northern Command, IDF Maj Gen Gabi Eisenkott, when he stated<sup>12</sup>:

***“... what happened in the Dahiya Quarter of Beirut in 2006 will happen in every village from which shots are fired on Israel. We will use disproportionate force against it and we will cause immense damage and destruction. From our point of view these are not civilian villages but military bases.... This is not a recommendation, this is a plan, and has already been authorised...”***

At the time of Eisenkott’s statement, Oct 2008, an effective ceasefire was in operation and Hamas were pressing for an extension. Nevertheless, the intentions of the Israeli authorities were further signalled in a paper by Col. (Ret) Gabriel Siboni, when he wrote in the Institute for National Security Studies,<sup>13</sup>:

***“ With the outbreak of hostilities, the IDF will need to act immediately, decisively and with force that is disproportionate to the enemy’s actions and the threat it poses. Such a response aims at inflicting damage and meting out punishment to an extent that it will demand long and expensive reconstruction processes.... Such a process will create a lasting memory among... decision makers thereby increasing Israeli deterrence.”***

<sup>11</sup> Authors observations as a member of the Amnesty International team in Lebanon, July-Aug 2006.

<sup>12</sup> Yedioth Ahronoth, Oct 2008. Also Ynet, 10 Mar 2008.

<sup>13</sup> The Goldstone Report, Para 1197, P. 254 and footnotes 583/4.

In the case of OCL it would appear that, once ground operations commenced, this doctrine would be pursued robustly. The Israeli minister for foreign affairs, Tzipoura Livni, the day after claimed<sup>14</sup>:

*“...Israel demonstrated real hooliganism during the course of the recent operation, which I demanded...”.*

These statements may explain the disregarding of the stated mission of OCL, namely, the elimination of the Hamas’ capacity to launch rockets into Southern Israel and the elimination of its military structures. They do not, however, explain the emphasis on risk aversion; the disregard for the safety of non-combatants; the use of non-combatants as human shields and the targeting of facilities accorded protections under the Conventions.

#### 4.

#### Rules of Engagement

The ground incursions, commenced on 3 January ’09, produced a slew of incidents that were to be the subject of enquiry by human rights organisations and by the Goldstone Report. These incidents were in the realms of: hostage taking; human shields; the shooting of non-combatants; the shooting of non-combatants seeking quarter (bearing white flags); the refusal to permit ambulances to collect wounded non-combatants; unlawful detention and interrogation; the targeting of persons in streets or in places normally accorded shelter status under the Conventions (places of worship, ambulances, UN facilities and hospitals).

Warning leaflets were dropped by the IDF and text messages were sent to mobile phones advising the people of Gaza to leave the area. This did not justify, according to the Goldstone Report, the shooting of persons who happened upon, or sought passage via, an IDF position. In any event, a commander on the ground is not absolved from his obligations towards non-combatants, solely by the issue of such warnings.

The incidents of hostage taking, human shields and of the shooting of persons approaching IDF positions in particular gave rise for concern. The actions of the troops in all IDF sectors were similar and indeed the nicknames and terms they used were common to all three sectors. For example, the use of a civilian as a human shield in order to enter a building, known or suspected to be harbouring Hamas operatives or to have been booby-trapped, was called the “good neighbour” or “Johnny” principle.<sup>15</sup> The procedures applied to civilians approaching a check-point, as described by soldiers in “Breaking the Silence”, were very much the same as practiced in all sectors. All persons, regardless of age or gender, were considered suspect or indeed hostile.

<sup>14</sup> Interview with Tzipoura Livni, Channel 10, 19 Jan 2009. Also quoted in Norman G Finkelstein’s book: “This Time We Went Too Far”, P. 80.

<sup>15</sup> “Breaking the Silence: Soldiers Testimonies from Operation Cast Lead, Gaza, Jerusalem, June 2009”, Testimony 1, Page 5.

A person approaching a check-point, waving a white flag but using a mobile phone, was to be shot on sight.

**What gave rise to rules of engagement that demanded of soldiers, such an aversion to risk that they were disposed to behave towards non-combatants in such a reckless manner?**

This brings us to the writings of Prof Asa Kasher, professor of professional ethics and philosophy of practice at Tel Aviv University and Maj Gen Amos Yadlin, Israeli Air Force and of the Military Intelligence Directorate of the IDF. In an essay -“Assassination and Preventive Killing”<sup>16</sup> - they raise the issue of targeted assassinations, as the title suggests. While abductions and assassinations have been attributed to Israel’s Mossad in the past, this article goes further in arguing for it’s legitimisation. It is therefore revealing of a trend in arguments to follow. In the above mentioned paper they pose the question:

“What priority should be given to the duty to minimise casualties among the combatants of the state when they are engaged in combat against ... terror?”

In answer to their question, it is suggested, that in the “war on terror,” the Geneva Conventions are outmoded and no longer suit a state’s efforts in combating terror. They go on to argue, that a state has a moral duty to respect its citizens’ rights more than it respects the human rights of those who are not their citizens. Further

*“a state does not shoulder responsibility for regular effective protection of persons who are neither its citizens nor under its effective control”<sup>17</sup>.*

In the case of the combatants of a state engaged in confronting “terror” they argue that placing a low priority on their safety is “immoral”. They go on to argue:

*“A combatant is a citizen in uniform. In Israel, he is quite often a conscript or on reserve duty. His state ought to have a compelling reason for jeopardising his life. The fact that persons involved in terror are depicted as non-combatants and that they reside and act in the vicinity of persons not involved in terror is not a reason for jeopardising the combatant’s life in their pursuit ....*

*The terrorists shoulder the responsibility for their encounter with the combatant and should therefore bear the consequences. Where the state does not have effective control of the vicinity, it does not to have to shoulder responsibility for the fact that persons who are involved in terror operate in the vicinity of persons who are not.”*

Avishai Margalit and Michael Waltzer,<sup>18</sup> in the New York Review of Books, (14 May 2009 et seq.), challenge the Kasher and Yadling argument. They offer the view that “the essay [went] far

<sup>16</sup> “Assassination and Preventive Killing”, John Hopkins School of Advanced Studies Review, Vol 25, No 1, Winter-Spring 2005. Also in the “ Journal of Military Ethics”, 2005.

<sup>17</sup> Prof Iain Scobbie, SOAS, paper delivered in the House of Lords, 17 March 2010.

<sup>18</sup> “Israel: Civilians and Combatants”, Margalit is a Professor of Philosophy at the Hebrew University of Jerusalem. Waltzer is Professor Emeritus of Social Science at the Institute for Advanced Study in Princeton.

beyond its academic significance” and state that the guidelines, suggested in it were indeed the “one’s that govern the IDF’s conduct in battle”. This assertion has been confirmed in an article in Haaretz, by Israeli officers<sup>19</sup> and it must be said, also denied by other IDF officers.

Essentially, what Kasher and Yadlin argue is that, in such a context, the safety of one’s own troops takes precedence over the safety of civilians caught up in an area in which terrorists operate. This contention is wrong and dangerous as it blurs the distinction between combatants and non-combatants.

Finally, the coincidence of the rules of engagement across the three operational areas, in which troop safety was paramount, to the evident detriment of the civilian population, was a recurring factor that may be deduced from the witness statements during the UN Fact Finding Mission’s hearings and from the “Breaking the Silence” testimonies. Such a coincidence is evidence of prior training and rehearsal, which, in turn, is likely to have derived from agreed doctrine.

What is also troubling about this theory is the apparent absence of refutations, much less discussion on it, in law journals of record. To be sure, the essay produced spirited exchanges in the New York Review of Books, in refutations by Michael Mansfield QC at the Russell Tribunal on Palestine and by Prof Iain Scobbie, SOAS<sup>20</sup>, in the UK House of Lords.

## 5.

### Other Asymmetries

#### **“This Time We Went Too Far”**

[Book title by Norman G. Finkelstein, New York, 2010]

In addition to arguments in favour of discarding or bypassing the Geneva Conventions, when engaged in counter-insurgency warfare, a term, intended to further argue for relaxation of the Conventions, came into use. “**Asymmetric**” warfare in an urban environment, it was suggested, argued for relaxations of the rules governing the protection of non-combatants. This word was used, on various occasions, when discussing OCL or the Goldstone Report. Used in such a context, it was applied to arguments in defence of OCL or as a critique of the Goldstone Report.

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<sup>19</sup> Op Cit, p.21

<sup>20</sup> By a US StateDepartment official, in the International Defence Review and by Bernt Greiner in his important study on the Viet Nam war.

While there is no agreed definition of the term “Asymmetric,” an example of its use can be found in the “US Army and Marine Corps Counterinsurgency Field Manual”<sup>21</sup> where it is argued that “insurgents are by their nature an “asymmetric threat”” and goes on to describe asymmetric tactics in Ireland in 1847 and the advice given as to how to achieve its insurgent purpose:

“The force of England is entrenched and fortified. You must draw it out of position; break up its mass; break its trained line of march and manoeuvre, its equal step and serried array...nullify its tactic and strategy, as well as its discipline; decompose the science and system of war and resolve them into their first elements.”

Essentially, the word, in its original form, was used to highlight the significance of disparities between opposing forces, qualitatively or numerically, and how, such a disparity could be overcome, or indeed contribute to, the defeat of the force with the perceived advantage. The English longbow-men defeating the French knights at Crecy seem to be the quintessential example of this genre.

Users of the asymmetric argument, in the context of counter-insurgency warfare, seem to argue for the relaxation of the laws of war when engaging insurgents who operate in an urban environment. Such relaxations derive from a perceived necessity to accept the inevitability of civilian casualties when engaging insurgents. For how else, they argue, can one neutralise insurgents in an urban setting?

Overlooked in this argument, is the fact that modern armies now possess precision targeting systems undreamed of some years ago. Spokespersons for the IDF confirm that some 90% of the munitions used in Gaza were precision guided. Moreover, anti-personnel munitions can have their warheads designed to limit the radius of damage much more precisely, thereby reducing the possibility of collateral damage.

The argument ignores the fundamental rule of counter-insurgency (COIN) warfare doctrine, which emphasises the primacy of people over terrain. Manuals and doctrine on the subject, are replete with statements abjuring readers to observe the rules which emphasise “hearts and minds” and to separate the insurgent from the people, as one would separate a fish from water. Indeed, one of the better, but by no means unique, theories in its advocacy of fighting for the support of the populace in the modern world, is UK General Sir Rupert Smith’s: “The Utility of Force”. In it, he argues that the modern variant is now a “... war amongst the people...” General Smith strongly advocates the application of the rules of war when engaging in counter-insurgency warfare. Such rules coincide with best practice and eschew the notions implicit in the asymmetric view, which argue for the application of unrestrained technologies, in the hope of defeating an ideology. It will not happen.

The Kasher and Yadlin theorists have offered a critique of those who have since put pen to paper to condemn the OCL operation or incidents during it. Significant among the human rights organisations to do so have been UN appointed enquiries, reports by Amnesty International (AI), Human Rights Watch (HRW), the Martin Report (into the white phosphorus (WP) attack on the UNWRA Compound), Physicians for Human Rights (PHR) and the Dugard Report. These

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<sup>21</sup> University of Chicago Press, 2007, P.109.

reports, some 300 in all, together with the Goldstone Report, are remarkable in the unanimity of their findings against the IDF actions. The critique uses the term “lawfare” to deride these finding, by arguing that there is an over-reliance on the Conventions, all for the purpose of hampering Israel’s rights to its security and the means it employs in achieving it.

The “lawfare” argument is considered to be an offshoot of the asymmetric warfare theory in that it is a means of further inhibiting an opponent’s range of actions or by imposing legal limits to them. It too remains unchallenged in journals of record. Mention of it now rarely occurs, mainly, it is presumed, by virtue of the contradictions in it. Nevertheless, it stands, and is of itself evidence of the influence of the original theory of Kasher and Yadlin which may have inspired it.

## 6.

### An Afterword

**“To ravage, to slaughter, to usurp under false titles they call empire;  
and where they make a desert they call it peace”**

[Tacitus in De Vita et Moribus Iulii Agricola]

OCL ceased on 18 Jan 2009 when IDF ground forces exited Gaza. The Goldstone Report, while concentrating, in the main on military operations, raised the issue of the blockade and its continuation after this date. Firstly, it must be acknowledged, that all of the incidents examined by the Report produced findings which were critical of OCL. In particular, the Report discussed and found against the Dahiyia Doctrine<sup>22</sup>. It found the actions taken by the IDF to be “disproportionate”<sup>23</sup> and that the operation departed from its declared mission in order to exact a “punishment on the people of Gaza,” presumably, for having elected Hamas to office.

With regard to the doctrine that presumed to have legitimised rules of engagement sanctioning risk aversion to the detriment of the civilian population, the Goldstone Report examined various incidents by type and again ruled against such actions, as follows:

- The use of human shields was prohibited under international humanitarian law, constituted cruel and inhuman behaviour and is a war crime.<sup>24</sup>
- Attacks on the civilian population in general constituted a grave breach of the Fourth Geneva Convention . Failure to take reasonable precautions to protect the civilian population was in breach of customary international law. Indiscriminate attacks against the civilian population were in breach of international law.<sup>25</sup>

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<sup>22</sup> Op Cit, Para’s 1194 to 1199

<sup>23</sup> Op Cit, Executive Summary, Para 62.

<sup>24</sup> Op Cit. Para 55.

<sup>25</sup> Op Cit, Para’s 37-40, 43-47,

- The use of certain weapons such as WP, flechettes and tungsten shrapnel and dense inert metal explosive (DIME) was considered to be “systematically reckless” especially when used in built up areas.<sup>26</sup>

It is, however, the findings under the heading “Attacks on the Foundations of Civilian Life in Gaza”<sup>27</sup> to which we must turn. The Goldstone Report again found such actions to be unlawful and wanton, were not justified by military necessity and amounted to a war crime. The question now arising is whether the systemic, or seemingly systemic, nature of such destruction was above and beyond the doctrines so far discussed and if so, what was its purpose? In order to discuss this it is necessary to examine the post-OCL consequences on those foundations of civilian life.

The Goldstone Report states that the military operations destroyed a substantial part of the economic infrastructure and were the product of deliberate planning and policy decisions.

The agricultural sector is a case in point. The razing of farmland, destruction of food-processing plants, water and irrigation systems and the denial of access to farmland adjacent to the border with Israel, is telling. Post OCL, much of this destruction was in urgent need of reversal and repair if land were to be secured from desertification, saturation (by munitions and their chemical residues and by sewage), salination or drying out. At the time of the presentation of the Goldstone Report, for example, some 6,800 dunums of land was considered to have been destroyed, (this figure was later adjusted to 20,000 dunums). Human rights agencies later in 2009 stated that 30% of the arable land was lost or rendered unavailable for produce. By June of 2010, the total amount of land damaged or otherwise unavailable for cultivation is now 67%.<sup>28</sup>

The destruction or removal of vegetation and especially trees in farmland adjacent to the border with Israel is especially troubling. Bulldozers were used in the main and they effected the destruction of 140,000 olive trees and 136,000 citrus trees in addition to wells and other forms of produce and vegetation.<sup>29</sup> The net result of this action was to create a free-fire zone extending in some instances 1000 metres deep from the border into the territories of Gaza. Farmers are now warned sometimes by fire if they come within this zone. The net outcome of this ‘exclusion zone’ is to create a second blockade in the territory of Gaza itself.

The agricultural sector in Gaza, it must be said, is not, and never was, capable of sustaining its population. Nevertheless as the amount of produce permitted by the Israeli authorities to enter Gaza is limited to mere subsistence level any produce from local sources is critical. The denial of food from fishing; the refusal to allow pumps to be imported in order to restore the 305 agricultural wells bulldozed by the IDF, is a further cause of concern.

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<sup>26</sup> Op Cit, Para’s 48-49.

<sup>27</sup> Goldstone Report, Executive Summary, Section 9: “Attacks on the Foundations of Civilian Life in Gaza: Destruction of the Civilian Infrastructure, Food Production, Water Installations, Sewage Treatment Plants and Housing”

<sup>28</sup> The Agricultural Projects Information System at [www.apis.ps/](http://www.apis.ps/) ( Factsheet May 2010)

<sup>29</sup> Data submitted to the author by Mr Mohammed El-Bakri, Engineer, on behalf of the Union of Agricultural Work Committees (UAWC),Gaza on 11 January 2010.

When one associates the agricultural infrastructure with the other damaged infrastructures such as: governance, education, medical, religious and social, a picture emerges in the months that have followed of desperation. The leading academic specialist on Gaza, Harvard scholar Sara Roy, adds:

"Gaza is an example of a society that has been deliberately reduced to a state of abject destitution, it's once productive population transformed into one of aid-dependent paupers.... After Israel's December [2008] assault, Gaza's already compromised conditions have become virtually unlivable. Livelihoods, homes, and public infrastructure have been damaged or destroyed on a scale that even the Israel Defense Forces admitted was indefensible.

"In Gaza today, there is no private sector to speak of and no industry. 80 percent of Gaza's agricultural crops were destroyed and Israel continues to snipe at farmers attempting to plant and tend fields near the well-fenced and patrolled border. Most productive activity has been extinguished.... Today, 96 percent of Gaza's population of 1.4 million is dependent on humanitarian aid for basic needs. According to the World Food Programme, the Gaza Strip requires a minimum of 400 trucks of food every day just to meet the basic nutritional needs of the population. Yet, despite a March [22, 2009] decision by the Israeli cabinet to lift all restrictions on foodstuffs entering Gaza, only 653 trucks of food and other supplies were allowed entry during the week of May 10, at best meeting 23 percent of required need. Israel now allows only 30 to 40 commercial items to enter Gaza compared to 4,000 approved products prior to June 2006."

Based on such an assessment it is fitting to describe the blockade as the continuation of the war by other means. It seems also that the war's strategies were rewritten to meet certain ends but that these ends have been exceeded. These ends are likely to continue to be exceeded for as long as the blockade is maintained.

The ends now intended for Gaza have not been the subject of comment and it will be a matter of speculation as to what those ends are. It seems clear that the continuation of the blockade constitute a fifth phase to OCL.

It now remains a matter of speculation as to what was the ultimate purpose of Operation Cast Lead.

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### **Biographical Note: Desmond Travers**

The author retired from the Irish Defence Forces in 2001. In a career spanning over forty years he served with peacekeeping missions or mission mandated by UN resolutions in: Cyprus UNFICYP (1964, '69/70), Lebanon UNIFIL/UNTSO (1980-82, '84/85, '87/88) the Former Yugoslavia ECMM/EUMM (1993, 2000/01).

His last appointment was as Colonel, Commandant of the Irish Defence Forces Military College.

In 2003 his participation was sought with the Institute for International Criminal Investigations (IICI) in The Hague. IICI provides consultancies and training for investigators and associated professionals into the means and methods involved in the investigation of war crime. He is now a director at the Institute.

In 2009 he was asked to participate in the UN Fact Finding Mission into the conflict in Gaza. The FFM's report was submitted to the Human Rights Council in Geneva on 30 Sept of that year and has come to be called "The Goldstone Report" after its chairman Justice Richard Goldstone.

Col Travers continues his interest in military history and heritage matters and is a member of the Military History Society of Ireland (MHSOI) and is a founder member of the Military Vehicle Club of Ireland (MVCI).

He writes from time to time on military matters. This essay is his fourth essay for the An Cosantóir Review. His most recent paper has been "Soviet Military Mapping of the The British Isles During the Cold War" which was published in Geheimhaltung und Staatssicherheit: Zur Kartographie des Kalten Krieges, Berlin, 2009.