**New Goldstone Committee Head Charged with Bias**

German jurist Christian Tomuschat says he won't step down.

By BENJAMIN WEINTHAL

25/07/2010

JPost

*http://www.jpost.com/International/Article.aspx?id=182483*

BERLIN – The chairman of the UN committee responsible for following up on the findings of the Goldstone Report on Operation Cast Lead acknowledged on Saturday that he had helped prepare an advisory opinion analyzing legal aspects of the Israeli-Palestinian issue in the 1990s, but said he could not recall whether he had done this work on behalf of Palestinian leader Yasser Arafat.

In any case, said German jurist Christian Tomuschat, the legal work had been objective, should not be regarded as “a blemish” and did not constitute a reason for him to step down from the Goldstone follow- up panel.

RELATED:

Goldstone follow-up panel slammed

UN appoints Goldstone monitoring c'tee

The Jerusalem Post had asked Tomuschat to comment on information it received over the weekend to the effect that he and four other international jurists prepared a brief for Arafat in 1996 concerning the international law aspects of the peace process, which suggested that Arafat should bring his case to the UN General Assembly, which could then refer it to the International Court of Justice.

The fact that Tomuschat had worked directly for one of the relevant parties should have been disclosed to Israel when his appointment to the Goldstone follow-up committee was made, but this was not done, according to the information received by the Post.

The panel was appointed last month by the UN human rights commissioner, Navi Pillay, and is about to start its work, with a view to publishing a report in October.

Tomuschat’s appointment had already attracted criticism from pro-Israel legal watchdogs because of his characterization of Israel’s policy of targeted killings as akin to “state terrorism.”

Furthermore, the Post learned over the weekend, Tomuschat has already made plain his conviction that states are incapable of effectively conducting investigations into alleged excesses by their military forces. His established stance on this issue is relevant because the mandate of the panel includes examining whether the Israeli judicial system is capable of properly investigating the alleged IDF excesses documented in the Goldstone Report.

Tomuschat set out this assessment in a study titled “The Individual Threatened by the Fight Against Terrorism?” In that study, published in 2002, he wrote: “In such instances, there is little hope that the judicial system of the state concerned will conduct effective investigations and punish the responsible agents. Nowhere have excesses committed by security forces been adequately punished.”

In the same study, he also wrote that “If a state strikes blindly against presumed terrorists and their environment, accepting that together with the suspects other civilians lose their lives, it uses the same tactics as the terrorists themselves. In this perspective, many actions carried out by the Israeli military in the occupied Palestinian territories would also have to be scrutinized very carefully.

“Normally,” he went on, “states see themselves as guardians of human rights. However, by ordering the systematic commission of war crimes and crimes against humanity they themselves deserve the same blame as those targeted by them.”

Tomuschat said on Saturday that he had done nothing that should require him to resign from the committee, that he was “not biased” against Israel, and that he had been in Israel many times and had participated in legal forums there.

Israel is acutely concerned about the Goldstone follow-up committee, whose mandate includes examining the efficiency, independence and professionalism of Israel’s court system and its adherence to internationally accepted standards.

It fears the unprecedented UN investigation into the effectiveness of both the Israeli civilian and military hierarchies, by a committee whose motives and preconceptions it acutely mistrusts, could undermine the credibility of the Israeli judiciary internationally and leave Israel vulnerable to censure in international legal forums.

Critics of the panel, and its membership, have asserted that it is incapable of performing its work fairly because all three of its members are affiliated with the International Commission of Jurists, which “has had a long history of anti-Israel bias going back to Jenin [after the IDF’s Operation Defensive Shield in 2002],” according to Gerald Steinberg of the NGO Monitor human rights watchdog. “Involving ICJ officials in an UN-related commission is another illustration of the link between the UN [Human Rights] Council and ideological NGOs,” he said earlier this month.

The other two committee members are Malaysian Param Cumaraswamy and American Mary Davis.

Tomuschat, in a 2007 interview in which he discussed Israel’s killing of Hamas spiritual leader Sheikh Ahmed Yassin in 2004, said, “Targeted killings are as ruthless as the attacks of terrorists.”

Asked if Israel’s targeted killings constituted “state terrorism,” Tomuschat said, “It is very much in that direction.”