Shame On You, Mary McGowan Davis

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It’s not often I find myself agreeing with Education Minister Naftali Bennett, the populist leader of the right-wing Jewish Home party who wants to annex most of the West Bank and would therefore usher in Israel’s destruction as either a Jewish state, a democracy, or both. But when Bennett greeted the publication Monday of the[UN Human Rights Council’s report](http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoIGaza/A_HRC_CRP_4.doc)on last summer’s Israel-Hamas war by succinctly telling its compilers, “Shame on you,” he had it exactly right.

Shame on you, Mary McGowan Davis, for accepting the mandate to sit on the commission in the first place, and then to replace the discredited William Schabas as its head, when the UNHRC that appointed you and set your terms is so demonstrably, openly, ridiculously, obsessed with delegitimizing and thus weakening Israel, in a gross distortion of its ostensible purpose. ([As of last summer,](http://time.com/3060203/united-nations-human-rights-council-israel/)*the majority* of the 100-plus resolutions passed by this outrageous body since its inception in 2006 had focused on Israel. That’s one country out of the world’s 200 or so,[almost all of which are engaged in some kind of conflict](http://www.independent.co.uk/news/world/politics/world-peace-these-are-the-only-11-countries-in-the-world-that-are-actually-free-from-conflict-9669623.html%22%20%5Ct%20%22_blank).)

Whether it was tactically wise for Israel not to cooperate with your investigation is open to question. But that Israel would be spectacularly wary about cooperating with, and thus lending a sense of legitimacy to, a team appointed by so preposterously skewed a forum is entirely understandable.

Indeed, you should have drawn the same conclusion that Israel has been forced by bitter experience to draw: that the UNHRC, with its twisted track record, is no place for those who strive for justice. Shame on you, Justice McGowan Davis, for now having extended that dreadful track record of injustice.

Official Israel often rightly laments the absence of “context” in media reports on its conflict with the Palestinians. Official Israel would like every report from Gaza to include references to the fact that Israel dismantled all its settlements and removed all its military forces from the Strip in 2005, and withdrew to the pre-1967, purportedly undisputed lines; that Hamas seized power in Gaza from the relatively moderate Mahmoud Abbas in 2007, killing many Palestinians in the process; that Hamas is avowedly committed to the destruction of Israel ([its guiding charter](http://www.thejerusalemfund.org/www.thejerusalemfund.org/carryover/documents/charter.html?chocaid=397) asserts that Israel, “by virtue of its being Jewish and of having a Jewish population, defies Islam and the Muslims”); and that Hamas uses its control of Gaza to wage war on Israel by any and all means, including by insidiously placing Gazans in harm’s way, secure in the knowledge that too many people worldwide will blame Israel when that harm befalls them. But journalists typically only have a couple of minutes or a few hundred words to cover a news story, and even if there is the will, there’s insufficient time or space for too much context.

The UNHRC inquiry team, however, had all the time and space it needed. It produced a 284-page report. And yet, in all that verbiage, it neglected to detail precisely how it was that Hamas came to power in Gaza, and what it is that Hamas stands for. It chose not to highlight Hamas’s strategic goal of destroying Israel. It mixed up cause and effect in describing the security blockade as “strangling the economy in Gaza and [as having] imposed severe restrictions on the rights of the Palestinians,” as though it is the blockade that has radicalized Gaza, rather than having been introduced as an attempted defensive measure by Israel (and Egypt) against the import of weaponry by Hamas.

The UNHRC commission equated the IDF, committed to self-examination and self-criticism as it struggles to protect Israel against threats on numerous fronts, with an Islamic extremist organization preaching unmitigated hatred for Israel. (Israel must and does constantly investigate and re-examine its military policies and operations; it doesn’t need a prejudiced UN panel to call it to order.) Actually, the inquiry did worse than that: It wandered bizarre linguistic alleyways in a bid to somehow differentiate between the Palestinian rulers and the armed groups of Gaza, as though they were not one and the same, and wishfully referred to the State of Palestine even as it held Israel responsible for the territory of that non-existent state.

Nowhere, in all those acres of words, did it offer the simple contextual truth in which last summer’s conflict played out, and in which, grimly, future conflicts are all but certain to unfold: Israel has no presence in Gaza. Israel has no territorial quarrel with Gaza. If Hamas halted its violence against Israel, there would be no suffering on either side of that border. But so long as Hamas continues to work for Israel’s destruction, Israel, like any nation that seeks to survive, will have no choice but to defend itself.

Don’t say we didn’t warn you

Shame on you, furthermore, McGowan Davis, for several formulations in your text that ought to prompt the kind of urgent reconsideration and retraction that your once-esteemed colleague, Richard Goldstone, who traveled this self-same ignominious route before you, ultimately found the vestiges of decency to acknowledge. Goldstone[belatedly admitted](http://www.washingtonpost.com/opinions/reconsidering-the-goldstone-report-on-israel-and-war-crimes/2011/04/01/AFg111JC_story.html)that his panel’s allegation of deliberate Israeli targeting of civilians was a lie. You steered narrowly away from quite so definitive an allegation. But you contorted ludicrously, for instance, to misrepresent gloating Hamas threats to fire rockets at Tel Aviv and other specific targets as constituting humane warnings to the Israeli citizenry. It’s worth quoting your paragraph 92 in its full ridiculousness:

“In a few instances it appears that Palestinian armed groups in Gaza attempted to warn civilians in Israel of attacks that might affect them. For example, according to information provided by the Ministry of Foreign Affairs of the State of Palestine, on 12 July 2014 an armed group in Gaza announced in Arabic and Hebrew that it would carry out an attack on Tel Aviv and specified the time at which the attack was to take place. On another occasion, according to media reports, the Al Qassam Brigades issued a warning to airlines not to fly to Ben-Gurion airport as it considered the airport to include a military base. On 20 August 2014, the Al Qassam Brigades, through a press release issued in English, once again warned international airlines not to fly into Tel Aviv starting from the following morning, and asked residents of communities located in the vicinity of Gaza to avoid returning home, or to remain inside shelters.”

An “armed group” — heaven forbid that the report explicitly acknowledge Hamas’s centrality to the rocket onslaught — “asked residents… to avoid returning home.” Let me understand this: Were Hamas’s spokesmen to ask all residents of the State of Israel toavoid returning home because Hamas intends to fire rockets and stage attacks throughout the country in order to destroy it, would that count as an admirable warning, an act of humanity, because, after all, it would mean we would have the opportunity to flee before our homeland was destroyed? Would the UNHRC’s subsequent report on the destruction of Israel go easy on Hamas and other terror groups because they had issued warnings, and because, after all, Israel is filled with military bases, and most Israelis have served in the army?

Other critics have already highlighted the report’s similarly devastating obtuseness when it comes to Hamas’s cross-border tunnels. The commission could not “conclusively determine the intent of Palestinian armed groups with regard to the construction and use of these tunnels.” The fact that “Palestinian armed groups” carried out a series of attacks into Israel via these tunnels was, incomprehensibly, not sufficient evidence of their purpose? The panel didn’t have a fundamental problem with “Palestinian armed groups” having manifestly spent months and years carving out tunnels into sovereign Israeli territory? And it didn’t realize — as it struggled to assert that, during the conflict, the tunnels were “only used to conduct attacks directed at IDF positions in Israel… which are legitimate military targets” — that for Hamas, all Israeli Jews are legitimate military targets?

Minister Bennett further asserted that the UNHRC report “has blood on its hands.” He’s right about that too. That’s because it constitutes an encouragement for the brand of quasi-state warfare purveyed both by Hamas from Gaza and by Hezbollah from south Lebanon — semi-governmental terror groups, dedicated to the destruction of the world’s only Jewish-majority country, fighting from within civilian populations that are semi-hostage, semi-supportive, and protected by panels such as McGowan Davis’s, which fail to distinguish between aggressor and defender. As another Israeli minister, Yuval Steinitz, observed on Monday, if a Palestinian suicide bomber commandeers a bus full of Palestinians and rams it into an Israeli tank, there’ll be lots of Palestinian fatalities, but only a fool or a blind man would blame the tank driver.

A fool, a blind man, or the head of an inquiry by the United Nations Human Rights Committee.

The urgent challenge for Israel

Much as Israel rails against the injustice, and complains that the world is either against it, indifferent or too mild in its defense, complaining isn’t going to turn the tide, however.

The family of nations has mutated since the UN revived the Jewish homeland 67 years ago. Its membership would not restore our historic nation if asked to vote today. Israel therefore needs to do everything it safely can to preserve and bolster the few crucial alliances it does have, while internalizing that ultimately it can rely only on itself.

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It needs to set its strategic goals and then follow them, clear-headedly. That means formulating policies to keep the country secure, with a Jewish majority, and democratic. Tolerating the current rearming by Hamas in Gaza does not accord with those goals. Nor does expanding isolated settlements in the West Bank. Or publicly fighting the US administration, for all [the deep problems we have with this presidency](http://www.timesofisrael.com/no-mr-president-you-dont-fully-understand-our-fears/). Or wishing away the global efforts to delegitimize our country and brand us as immoral. Outraged rhetoric by politicians is not a strategic response; dividing responsibility for the second battlefield — the lawfare/media/PR battlefield — between numerous self-interested politicians and their rival staffs is a guarantee of continued incompetence.

As things stand, we’re walking trance-like into the next round of warfare with Hamas, with no new strategy to turn three devastating rounds of ultimately indecisive conflict into victory. Although we know that Iran could signal at any moment for Hezbollah to let fly with its civilian-emplaced rocket-launchers, we have no better strategy for that front either, just threats from political and military leaders that the IDF will wreak widespread destruction — precisely what Hezbollah hopes will happen. Days of war loom — with Israel’s population battered, Israel’s image further devastated, increasing dismay and intolerance from the international community, and the UNHRC salivating at the prospect of sticking it to Israel again.

So, yes, shame on you, Mary McGowan Davis, for failing to present a just accounting of last summer’s war. But shame on the leadership of Israel for thinking it has the luxury of engaging in petty politics, for allowing itself to be preoccupied with short-term irrelevancies, and for failing, thus far, to grapple properly with the task of outwitting the Hamases and the Hezbollahs — on and off the battlefield.

Israel defeated conventional warfare time and again, in 1948, 1956, 1967, 1973. It overcame the strategic terrorist onslaught of the Second Intifada. What’s urgently needed now is a strategy to defeat this third phase of our enemies’ efforts to destroy this country — which they pursue by waging war from within a civilian populace, and demonizing Israel when it fights back. However much we moan about the intransigent hostility, the relentless conflicts, the misrepresentation and the injustice, the cold fact is that our enemies are celebrating. And Mary McGowan Davis is one more ghastly reason for that.