The U.N.’s Israel Inquisition

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U.N. reports on Israel sometimes remind us of the classic Monty Python sketch “Nobody Expects the Spanish [Inquisition](https://www.youtube.com/watch?v=Tym0MObFpTI&list=RDTym0MObFpTI#t=27)!” with its screwball combination of comic ineptitude and malignant predictability. So it is with Monday’s inquisi—er, “Inquiry”—by the U.N. Human Rights Council on last summer’s war between Israel and its terrorist enemies in Gaza.

The 183-page report, from former New York state Justice Mary McGowan Davis and Senegalese lawyer Doudou Diene, purports to be even-handed by citing both Israel and Hamas for possible war crimes and violations of international law. That’s something of an achievement for the Council, which has a lopsided record of condemning Israel and whose current members include Qatar, Russia and Venezuela.

Yet the report is fundamentally an anti-Israel document. The bias begins with a preposterous claim that Israel continues to “occupy” Gaza, despite its 2005 withdrawal, on the theory that Israel has the capacity “to send troops within a reasonable time to make its power felt.” By that standard, the U.S. occupies Canada and the Bahamas.

The report accuses Israel of using “disproportionate” force and targeting residential buildings, while playing down that Hamas made a point of operating from civilian areas as a shield against Israeli retaliation and to flaunt civilian casualties. It also indicts Israel by way of unconfirmed assumptions submitted as evidence of guilt, as in this gem:

“Given the absence of information suggesting in each case that the anticipated military advantage at the time of the [Israeli] attack was such that the expected civilian casualties and damage to the targeted and surrounding buildings were not excessive, there are strong indications that these attacks could be disproportionate, and therefore amount to a war crime.”

Israel refused to cooperate with the inquiry, since there was little question what its conclusions would be. A similar inquiry into the 2008-2009 Gaza war, led by South African jurist Richard Goldstone, charged Israel with war crimes and potential crimes against humanity—only to be later recanted by Mr. Goldstone in a newspaper op-ed. The current inquiry was initially going to be chaired by Canadian academic William Schabas—until it turned out he had been paid to consult for the Palestinians.

This is typical of the U.N., but it’s not trivial. As Benjamin Wittes and Yishai Schwartz noted Wednesday in the Lawfare blog, “approaches [to International Humanitarian Law] that begin as a way of constraining Israeli military action quickly migrate to constraining U.S. military action.” That goes especially for the Gaza inquiry’s presumption that the Israeli military must furnish proof that its targets have military value, or otherwise be suspected of war crimes.

The Obama Administration says it will oppose bringing the report to the U.N. Security Council, but it lent legitimacy to the enterprise when it joined the Human Rights Council after the Bush Administration had stayed away. If the President wants to demonstrate his support for Israel, one place to start would be to withdraw from the Council for producing this shameful report.