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Legitimizing bigotry:

The legacy of Richard Goldstone

Posted by Alan M. Dershowitz

Richard Goldstone, author of the notorious Goldstone report, did not become a South African judge in the post-Apartheid Mandela Era, as The New York Times and other media have erroneously reported. He accepted a judgeship during the worst days of Apartheid and helped legitimate one of the most racist regimes in the world by granting the imprimatur of the rule of law to some of the most undemocratic and discriminatory decrees.

Goldstone was - quite literally - a hanging judge. He imposed and affirmed death sentences for more than two dozen blacks under circumstances where whites would almost certainly have escaped the noose. And he affirmed sentences of physical torture - euphemistically called "flogging" - for other blacks. He also enforced miscegenation and other racist laws with nary a word of criticism or dissent. He was an important part of the machinery of death, torture and racial subjugation that characterized Apartheid South Africa. His robe and gavel lent an air of legitimacy to an entirely illegitimate and barbaric regime.

It is no surprise that Goldstone kept this part of his life secret from academic colleagues, friends and the general public. I recall him at the lunch and dinner tables in Cambridge describing himself as a heroic part of the struggle against Apartheid. Now it turns out he was the ugly face of Apartheid, covering its sins and crimes with a judicial robe. How differently we would have looked at him if we knew that he had climbed the judicial ladder on whipped backs and hanged bodies.

Now that his dirty secret has been exposed to the world, he has invoked the defense raised by German judges at Nuremberg: "I was just following the law." This cowardly defense was rejected at Nuremberg and by the international law that Goldstone claimed to be applying against Israel in the Goldstone report. It should be resoundingly rejected by the court of public opinion. Goldstone's friend and former judicial colleague, Arthur Chaskalson, has rushed to the defense of his fellow South African judge, saying that it was "better to have an honest judge on the bench than another kind." Putting aside the issue of whether Goldstone was an honest judge - the Goldstone report strongly suggests he is "another kind" - the German judges offered precisely that argument at Nuremberg. "I did it to help the Jews."

In the film Judgment at Nuremberg, based on a real case, the judge argued that by unjustly sentencing one Jew to death, others might be helped. He also said he had no choice but to apply unjust laws. He was convicted. Goldstone may have persuaded himself and other judges who served the Apartheid regime that by hanging and torturing some blacks, they would be helping other blacks, but the only ones that were helped were the racists who ran the Apartheid regime and Goldstone himself, who used his Apartheid judgeship as a stepping stone and career booster.

It is interesting that Goldstone made a similar argument to friends as to why he accepted the chairmanship of the investigative commission offered to him by the United Nations Human Rights Council. He acknowledged that the Council was biased against Israel. Indeed, it treats Israel much the way Apartheid courts used to treat Black Africans: Just as there was special justice (really injustice) for blacks, so too there is special justice (really injustice) for Israel. Goldstone claims he took the job "to help Israel," just as he took his previous job to help blacks. In both cases he cynically hurt those he said he wanted to help, while helping only himself. In both cases he was selected to legitimate bigotry. In both cases, better people than him refused to lend their credibility to an illegitimate enterprise. But Goldstone accepted, because it was good for his career.

Goldstone is an ambitious opportunist who lacks the courage of his convictions - if he ever had any. He has always put personal advancement over principle. He is a master of rationalization and self justification. This time he has run out of excuses. He's been exposed as a poseur who will sell his integrity for a careerist opportunity. Fortunately he now has little integrity left to sell.