



Russell Tribunal on Palestine

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Russell Tribunal on Palestine – Presentation by Phil Shiner on the EU Association Agreement

By Phil Shiner, Barrister, UK

Introduction

My opening remarks will focus on what I am going to talk about (and what I am not). I am taking as read that the Panel are fully aware of the serious human rights issues arising from Operation Cast Lead (as set out in full in the UN report from Richard Goldstone) and that there is no need for me to expand on these. I will concentrate on two aspects of the EU-Association Agreement. These are, one, the position within international law and two, the position within EU Law.

International Law

I will explain how the relevant international law imposes on all states clear international obligations in respect of Israel's blockade of Gaza and the breaches of international law during and after Operation Cast Lead. These obligations mirror those helpfully set out in paragraph 159 of the Opinion of the ICJ in The Wall (July 2004). I will explain how important compliance with these obligations is and how these obligations are being breached by EU States. I will discuss how the justiciability of these breaches might be a matter for Domestic Courts in each EU State's jurisdiction.

EU Law

I will explain how given the position in international law the conditionality clause of the EU-Israel Association Agreement is in play and is being breached. A brief outline will be given as to the main breaches. Finally given the past and continuing breaches of the Association Agreement I address the question as to whether an individual or organisation may, in present circumstances, take the matter to a Court of First Instance and if so under what legal provisions.