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Gaza Revisited



Giora Eiland Photo:
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It's all about politics

Israel should not be calling inquiry into Gaza war to appease Goldstone

Giora Eiland

In recent days we have seen a renewed debate on whether Israel needs to establish a commission of inquiry to look into the [Goldstone Report's](#) charges.

The debate is legitimate, yet it appears that supporters of such commission are being naive. There are four good reasons why not to establish a commission of inquiry and there is not even one real reason why we should do so.

The first reason has to do with the subject matter. [Operation Cast Lead](#) can be examined according to military-professional criteria, moral criteria, or diplomatic criteria. It must not be examined in line with international law criteria, as Goldstone wants, for the simple reason that it's irrelevant. International law that pertains to wars is premised on three assumptions: The war pits states against each other, both sides deploy soldiers in uniform, and both sides are committed to the same codes. None of the above conditions was present in Gaza.

As most military conflicts today have similar characteristics, the only criteria we should examine ourselves in line with is the global standard. If we wish to be even stricter, we should look at the American and British standard. We can agree to be examined based on the written American doctrine, in line with the operational orders issued in Kosovo, Iraq, and Afghanistan, or according to American and British acts on the ground. This must not be done by attorneys, who use the laws of war as their criteria.

The second reason is the timing. Israel just handed over to the United Nations a detailed document that responds to each and every claim made by the Goldstone Report. Don't we believe our own document?

The third reason is political. Those who appointed the Goldstone Committee are trying to push Israel into a situation whereby any effective military operation will be considered illegitimate. Goldstone specifically said that Israel can only utilize precise commando operations against the rocket threat. Adopting this approach completely contradicts the American interest. As opposed to the negative predictions, whereby the US won't back us should we fail to establish a commission of inquiry, the US and other Western countries will be supporting us, if only because of their identical interests on this front.

The fourth reason is domestic. The Israeli public accepts the need for a commission of inquiry and even demands it when it turns out that the army's and political leadership's performance was disappointing (as was the case in the Yom Kippur War and in the Second Lebanon War,) or when genuine concerns emerge as to the army's morality (as was the case in Sabra and Shalita.) The public will justifiably resist an inquiry aimed at appeasing the gentiles and placing the IDF at court for no good reason.

Supporters of a commission of inquiry argue that establishing it will serve to mitigate the international pressure and minimize the risk of indictments against senior Israeli officials overseas. This is baseless, as the pressure on Israel is political and not based on substantive reasons.

About two years ago, legal proceedings were launched in Spain against six senior

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Israeli officials charged with harming civilians in the operation to assassinate Salah Shahade. In that case, Israel conducted itself "well" – the issue was subjected to an inquiry outside the army and was even heard by the High Court of Justice. Yet all of that did not convince the Spaniards to lay off.

So why was the Spanish legal procedure annulled? The Spanish law drew dozens of lawsuits from across the world against the whole world. When legal proceedings were launched against Chinese generals charged with crimes against humanity, China made it clear to Spain that it better change the law. Spain got scared and indeed changed the law.

In 2002, the UN secretary general initiated a commission of inquiry over the "Jenin massacre." Why was the commission called off even before it was established? Because Israel managed to enlist both the US Administration and Congress to the cause of resisting the move.

In other words, neither justice nor law are the tools of the trade here, but rather, pure politics. The establishment of a commission of inquiry in Israel will not mitigate the pressure against us, but rather, merely serve to encourage hostile elements to continue to press Israel.

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