

My mission - and motivation

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Richard Goldstone , THE JERUSALEM POST

Five weeks after the release of the Report of the Fact Finding Mission on Gaza, there has been no attempt by any of its critics to come to grips with its substance. It has been fulsomely approved by those whose interests it is thought to serve and rejected by those of the opposite view. Those who attack it do so too often by making personal attacks on its authors' motives and those who approve it rely on its authors' reputations.

Israeli government spokesmen and those who support them have attacked it in the harshest terms and, in particular my participation, in a most personal and hurtful way. The time has now come for more sober reflection on what the report means and appropriate Israeli reactions to it.

I begin with my own motivation, as a Jew who has supported Israel and its people all my life, for having agreed to head the Gaza mission. Over the past 20 years, I have investigated serious violations of international law in my own country, South Africa, in the former Yugoslavia, in Rwanda and the alleged fraud and theft by governments and political leaders in a number of countries in connection with the United Nations Iraq Oil for Food program. In all of these, allegations reached the highest political echelons. In every instance, I spoke out strongly in favor of full investigations and, where appropriate, criminal prosecutions. I have spoken out over the years on behalf of the International Bar Association against human rights violations in many countries, including Sri Lanka, China, Russia, Iran, Zimbabwe and Pakistan.

I would have been acting against those principles and my own convictions and conscience if I had refused a request from the United Nations to investigate serious allegations of war crimes against both Israel and Hamas in the context of Operation Cast Lead.

As a Jew, I felt a greater and not a lesser obligation to do so. It is well documented that as a condition of my participation I insisted upon and received an evenhanded mandate to investigate all sides and that is what we sought to do.

I sincerely believed that because of my own record and the terms of the mission's mandate we would receive the cooperation of the Israeli government. Its refusal to cooperate was a grave error. My plea for cooperation was repeated before and during the investigation and it sits, plain as day, in the appendices of the Gaza report for those who actually bother to read it. Our mission obviously could only consider and report on what it saw, heard and read. If the government of Israel failed to bring facts and analyses to our attention, we cannot fairly be blamed for the consequences. Those who feel that our report failed to give adequate attention to specific incidents or issues should be asking the Israeli government why it failed to argue its cause.

Israel missed a golden opportunity to actually have a fair hearing from a UN-sponsored inquiry. Of course, I was aware of and have frequently spoken out against the unfair and exceptional treatment of Israel by the UN and especially by the Human Rights Council.

I did so again last week. Israel could have seized the opportunity provided by the even-handed mandate of our mission and used it as a precedent for a new direction by the United Nations in the Middle East. Instead, we were shut out.

As I stated in response to a recent letter from the mayor of Sderot, I believed strongly that our mission should have been allowed to visit Sderot and other parts of southern Israel that have been at the receiving end of unlawful attacks by many thousands of rockets and mortars fired at civilian targets by Hamas and other armed groups in Gaza. We were prevented from doing so by, what I believe, was a misguided decision by the Israeli government.

In Gaza, I was surprised and shocked by the destruction and misery there. I had not expected it. I did not anticipate that the IDF would have targeted civilians and civilian objects. I did not anticipate seeing the vast destruction of the economic infrastructure of Gaza including its agricultural lands, industrial factories, water supply and sanitation works. These are not military targets. I have not heard or read any government justification for this destruction.

OF COURSE the children of Sderot and the children of Gaza have the same rights to protection under international law and that is why, notwithstanding the decision of the government of Israel, we took whatever steps were open to us to obtain information from victims and experts in southern Israel about the effects on their lives of sustained rocket and mortar attacks over a period of years. It was on the strength of those investigations that we held those attacks to constitute serious war crimes and possibly crimes against humanity.

The refusal of cooperation by the government of Israel did not prevent us from reacting positively to a request from Gilad Schalit's father to speak personally to our mission at its public session in Geneva. No one who heard his evidence could fail to have been moved by the unspeakable pain of a parent whose young son was being held for over three years in unlawful circumstances without any contact with the outside world and not even allowed visits from the International Committee of the Red Cross. The mission called for his release.

Israel and its courts have always recognized that they are bound by norms of international law that it has formally ratified or that have become binding as customary international law upon all nations. The fact that the United Nations and too many members of the international community have unfairly singled out Israel for condemnation and failed to investigate horrible human rights violations in other countries cannot make Israel immune from the very standards it has accepted as binding upon it.

Israel has a strong history of investigating allegations made against its own officials reaching to the highest levels of government: the inquiries into the Yom Kippur War, Sabra and Shatila, Bus 300 and the Second Lebanon War.

Israel has an internationally renowned and respected judiciary that should be envy of many other countries in the region. It has the means and ability to investigate itself. Has it the will?

The writer led the UN-mandated Gaza Fact-Finding Mission established to investigate alleged crimes committed during Operation Cast Lead earlier this year. The mission released its 575-page report last month.

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