IDF Official: If Our War Crimes Probes No Good, All of the West's are No Good

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With a veiled threat to the International Criminal Court, a top IDF legal division official said on Monday that “if others say that our investigations” into war crimes allegations are insufficient, then “the entire Western world” must realize that their investigations will be declared insufficient.

IDF Deputy Military Advocate- General Col. Eli Baron’s statement, at the Israel Bar Association Conference in Eilat, was the first major statement by a high-ranking IDF official since ICC Prosecutor Fatou Bensouda last week issued what was interpreted as a warning to Israel to cooperate with her office more quickly on her preliminary examination of war crimes allegations in the 2014 Gaza war.

Bensouda implied she might be stuck deciding whether to open a full criminal investigation against Israeli soldiers based solely on evidence from Israel’s human rights critics, if Israel does not provide her with its own evidence on the Gaza war soon.

Israel’s response was to attack the ICC prosecutor’s move and her preliminary probe in which she recognized a “State of Palestine.”

Jerusalem still vehemently rejects the idea of a “State of Palestine,” especially regarding any issues relating to the ICC.

Baron added that “international law is not frozen, and we need to develop it for new situations.”

He gave as an example “targeted assassinations,” which he said only Israel implemented over a decade ago, but has now been adopted by the West across the board for fighting terrorists.

Baron also predicted that Israel would have significant support from other Western countries which are impressed with the IDF’s efforts to avoid civilian casualties in war and to investigate itself.

Deputy Attorney-General Roy Schondorf spoke on the same panel with Baron and responded to a question – from Rina Matzliah of Channel 2, who moderated the session – as to whether Israel “has any chance with these inquiries.”

He said, “I agree with you that there are certain forums” which are politicizing investigations and international law, though he added “some forums are less politicized.”

Schondorf gave the UN Human Rights Council as an example of a politicized forum which is dominated by countries with poor human rights records.

The deputy attorney-general said that “even UN Secretary- General Ban Ki-moon had criticized” the UNHRC over its focus on Israel.

Schondorf also referred to the UNHRC’s Commission of Inquiry into Gaza as problematic, since it was originally led by William Schabas, who eventually resigned when it was revealed he had performed some legal work for the PLO.

On the flip side, Schondorf cited Ban’s recent Board of Inquiry Report on the summer 2014 Gaza War, which credited Israel for its cooperation in the investigation.

Gregory Kehoe, a trial lawyer in war crimes tribunals, said that many international inquiries do not do a systematic analysis, breaking down an incident into subparts to see what soldiers were thinking and knew about the threat they faced at each stage of an attack.