Vote Approving UN’s Gaza War Probe a Case of Much Talk, Few Consequences

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It came as no surprise whatsoever that the United Nations Human Rights Council on Friday approved a resolution backing the controversial McGowan Davis report on last summer’s 50-day Israel-Hamas war.

The European Union deliberated until virtually the last minute on how to vote, but eventually decided to throw its full support behind the resolution welcoming a report that Israel considers to be deeply biased and skewed. The desire among the Europeans to speak with one voice eventually led even Germany to vote yes, in what will be perceived as a particularly painful sting in Jerusalem. As so often happens, only the US rejected the resolution.

But even if Israel had succeeded in splitting the European vote into many yeses and a few abstentions, the automatic Arab majority in the 47-member council meant that the end result was never in doubt.

Israeli diplomats in Geneva spent many hours trying to persuade their colleagues to vote against the resolution. Several Israeli politicians, from the coalition and opposition, sent letters urging council members to reject draft resolution A/HRC/29/L/35. Prime Minister Benjamin Netanyahu invited the ambassadors of the countries sitting on the council to Jerusalem for a special briefing (though according to a diplomat who was there, he spoke mostly about Iran).

The bad news is obvious: Once again, Israel was let down not only by the usual suspects, but also by countries that it considers its friends.

During the debates that preceded the vote on the resolution, Russia, China, Venezuela, Cuba and other countries with questionable human rights records voted against resolutions condemning Syria and Belarus. Yet on Friday they all happily voted in favor of a text that, at best, put Israel and Hamas on the same moral plane. (Since the McGowan Davis report strives to differentiate between Hamas and what it calls “Palestinian armed groups,” it actually spares Hamas the kind of direct criticism it levels at Israel.)

Israel argues that the resolution, and the report that prompted, ties its hands in fighting terrorism and encourages Hamas to continue attacking Israeli civilians with impunity, including from within residential areas. It actually does more than that.

The thrust of the report, according to UN Watch, a Geneva-based human rights group, stresses “that Israel’s political and military leaders (together with Hamas terrorists) should be investigated and prosecuted for ‘possible war crimes’ in international tribunals, as well as in domestic courts worldwide.”

Indeed, McGowan Davis’s text suggests that Israel’s actions in Gaza might constitute “military tactics reflective of a broader policy, approved at least tacitly by decision-makers at the highest levels” of Israel’s government. The document further urges all parties to “cooperate fully with the preliminary examination of the International Criminal Court and with any subsequent investigation that may be opened.”

It also calls on the international community to “support actively” the court’s work in the Palestinian territories, and further recommends that the international community exercise universal jurisdiction to try international crimes in national courts and to “comply with extradition requests” of suspected war criminals.

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McGowan Davis intentionally kept the language of these paragraphs vague so as to make it applicable to both Israelis and Palestinians. But it’s no secret that the Arab states that sponsored Friday’s resolution — which calls on the UN to “pursue the implementation of all recommendations” — want to see the leaders of only one side at The Hague.

The less bad news? The resolution also could have gone much further. It stopped short, for instance, of calling for sanctions against Israel or referring the matter to the UN Security Council, which would have meant a bigger headache for Israel than a largely meaningless resolution at the Human Rights Council.

Indeed, the Palestinians’ initial draft was much harsher in its one-sided condemnation of Israel, but was altered significantly in exchange for that European support.

The draft that was finally voted on made several concessions, though this was all part of Ramallah’s plan, according to some experts. Observers critical of the European voting pattern claimed that it’s always the same game: the Palestinians intentionally include extremely harsh and unbalanced language in their first draft so they can appear conciliatory by agreeing to make some changes. Once again, these experts argued, Ramallah succeeded in making the EU feel that it had to reward such ostensible flexibility with a “yes” vote.

“The fact that the entire EU voted in favor of a UN resolution on the Gaza war that never once mentions rockets or tunnels or Hamas, and directly ‘deplores’ only Israel, is shocking — even for the EU,” fumed Anne Bayefsky, the director of the Touro Institute on Human Rights and the Holocaust.

While still fundamentally biased against Israel, the draft that was finally approved took several Western and Israeli concerns into account. It still doesn’t reference Israel’s right to defend itself from rocket attacks nor mention Hamas even once, but some of the most absurd segments were removed.

For instance, a paragraph in the earlier draft that would have held Israel responsible for the fact that the Palestinians don’t investigate Hamas’s unmentioned war crimes is gone. The resolution also no longer “endorses” the McGowan Davis report, but merely “welcomes” it — a small but, in diplomatic language, not insignificant change.

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A paragraph affirming that an “end [of] Israel’s prolonged military occupation” is “necessary for upholding human rights and international law and would contribute tremendously to the prevention of crimes” was replaced with one simply stressing the “urgency of achieving without delay an end to the Israeli occupation that began in 1967.”

The resolution also no longer calls upon all states to “ensure that their public authorities and private entities do not become involved in internationally unlawful conduct by Israel.” Or to make efforts to “limit the use of explosive weapons with wide-area effects in populated areas with a view to strengthening the protection of civilians during hostilities.” The last point was clearly intended to impede the IDF’s ability to fight terrorists in Gaza.

Perhaps most importantly, however, the draft resolution no longer calls for the creation of a new follow-up mechanism to oversee the implementation of the report’s recommendations. The Palestinians’ original draft had called for the UN High Commissioner for Human Rights, Zeid Ra’ad Al Hussein, to conduct such a review and to recommend “mechanisms that could be established to ensure their implementation.”

The final draft dropped that last request, instead asking the high commissioner to produce a report on the McGowan Davis report’s implementation.

It also recommends the UN General Assembly take on the matter “until it is satisfied that appropriate action” is taken to implement the report’s recommendations.

What that means is that in a few weeks the nations of the world will gather in New York to once again condemn Israel’s behavior during the last Gaza war. Just like this week in Geneva, there will again be much talk, but at the end of the day not much will actually happen.