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EDITORIAL

Taking Responsibility for Pollard

Israel's state comptroller, retired judge Micha Lindenstrauss, last week released a report on the country's handling of the Pollard affair. In a nutshell, the report exonerates Israel's political leadership and blames Jonathan Pollard's continued incarceration on the "fierce and consistent" opposition of U.S. administration and intelligence officials. It also recommends that Israel press the Americans to give Pollard a new trial.

The report is, to put it charitably, a huge disappointment.

For starters, it makes contradictory claims. On one hand it states categorically that since 1996, the governments of Binyamin Netanyahu, Ehud Barak, Ariel Sharon and Ehud Olmert acted "continuously and consistently" to obtain the release of Pollard. "The Pollard issue challenged the prime ministers of Israel," it states. "Their actions were continual and consistent, and the issue was brought up in their meetings and conversations with U.S. presidents."

At the same time, Lindenstrauss admits that Netanyahu, Barak, Sharon and Olmert made sure that their discussions with U.S. presidents and senior administration officials on this sensitive issue were never documented. (He calls this failure a "significant transgression," because it makes it impossible to reassess past efforts to get Pollard freed and try to come up with a more successful approach.)

But if Lindenstrauss didn't have any transcripts of these meetings, how could he be so sure that these prime ministers acted "continuously and consistently" on Pollard's behalf?

Without going into all of the details of the Pollard case, the pertinent facts are as follows: Jonathan Pollard is an Israeli citizen (as of 1995); the government of Israel has recognized him as an Israeli agent (as of 1998); and he has spent the past 24 years in prison for providing Israel with information that saved many, many lives.

In this sense, Pollard is like any other Israeli prisoner, be it Ron Arad, the navigator downed over Lebanon in 1986, or Gilad Shalit, the IDF soldier kidnapped at the border with Gaza three years ago. But there's one crucial difference: While Arad and Shalit are being held in unknown locations by terror organizations, Pollard is in the hands of Israel's closest ally, the United States. And it is inconceivable that Israel leaders acted "continuously and consistently" and still came up empty-handed.

How can it be that 24 years have passed — with U.S. administrations that were Republican and Democrat; more friendly to Israel and less friendly; with prime ministers from Labor and the Likud — and

that at no time was it possible to close a deal that would send Pollard home?

If the efforts of Israeli prime ministers were truly continuous and consistent, if there was the proper sense of *hakaras hatov* to Pollard for what he did for Israel, then surely there were ample opportunities in the past 24 years — be it at the signing of Oslo or the disengagement or the end of the administration of former president George W. Bush — to gain the release on humanitarian grounds for a man who is sick and who has expressed remorse for his deeds? (The notable exception was then-Prime Minister Binyamin Netanyahu, who truly tried to engineer a deal upon signing the Wye Plantation agreement on a Chevron withdrawal, only to be bitterly disappointed by Bill Clinton.)

The inescapable conclusion is that if prime ministers raised Pollard's case in all top-level discussions, it was done for the record, *latzeis yedei chovah*. The prime minister in question raised his name, the president noted that it had been raised and then they moved on to more "important" matters.

MK Otniel Schneller (Kadima), who chairs the Knesset subcommittee that commissioned the state comptroller's report, refuses to join Lindenstrauss in applauding the work of previous prime ministers. "In the test of the result, the work surrounding Pollard did not succeed," he told *The Jerusalem Post*. "The fact that Pollard is still in jail is a failure."

To be sure, there is no denying that there are forces in the U.S. administration and among top intelligence officials who have consistently blocked efforts to gain Pollard's release. It is also crystal clear that he was denied due process, given an excessive prison sentence and deserves an immediate release on humanitarian grounds due to his physical condition.

But the main problem is the way the Israeli government relates to Pollard. All along it was reluctant to assume responsibility for his actions, waiting more than 10 years to acknowledge that he had been acting as its agent.

Of all the prime ministers, Netanyahu is the one who has shown the greatest willingness to accept such responsibility. In 2002, he visited Pollard in prison. In 2007, he said that if he were elected prime minister he would bring about Pollard's release. Now it's time for him to try to keep that promise.

Let us keep Yehonoson ben Malkah constantly in our *tefillos*, and may Jonathan Pollard be written and inscribed for a good year, one that sees him released to Israel where, at long last, he will have a chance to regain his health and begin life anew.



OPINION

It's Time to Elect All U.S. Senators

By Rob Richie

In 2004, in hopeful anticipation of a victory by Sen. John Kerry in the presidential race, Massachusetts state legislators voted to require special elections to fill U.S. Senate vacancies. Partisan incentives conveniently aligned with democratic idealism, as the Democratic majority in the legislature took the selection of a senator away from Republican Gov. Mitt Romney and handed it to the people. Massachusetts is now one of only four states to require election of all its U.S. senators.

In the wake of the death of Ted Kennedy, Massachusetts legislators are debating a change to allow the current Democratic governor to make a short-term appointment. Massachusetts should stand by its law. As Sen. Kennedy said in a May 2005 speech to Congress, "The vast majority of Americans' share our commitment to basic fairness. They agree that there must be fair rules, that we should not unilaterally abandon or break those rules in the middle of the game."

More broadly, the authority of our government is grounded in the power of people to choose their representatives. No member of the U.S. House of Representatives has ever taken office without an election. Even though the first House only had 65 members, including two from single-seat states, our founders believed that the "people's House" demanded elections, even if inconvenient.

The U.S. Senate is now also a house of the people. The 17th Amendment to the Constitution requires election of all senators, but gives states the option to fill vacancies by gubernatorial appointment. Into that hole have walked the likes of former Illinois Gov. Rod Blagojevich, who brazenly sought to sell a vacancy to the highest bidder. Since the 17th Amendment, governors have appointed nearly a quarter of all U.S. senators. Once a new senator is appointed in Texas, almost 27 percent of all Americans will have at least one unelected senator; a Massachusetts appointment would raise that percentage to 29 percent.

Tawdry details from the rash of appointments in the past year underscore the perils of senatorial appointments.

Governors can make backroom details to entrench their power. They can give their favorites all the powers of incumbency, as in New York and Colorado, or choose to appoint obvious seat-warmers for lengthy terms, as in Florida and Delaware. Evidence suggests that appointed senators have a harder time gaining respect in Congress than their elected colleagues.

States have the power to uphold the principles of representative democracy. This year Connecticut's Republican governor signed the Democratic legislature's bill requiring special elections for Senate vacancies, while the Rhode Island legislature passed similar legislation by overwhelming margins. States have the flexibility to keep special election periods to just three or four months, ideally with

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instant runoff voting to accommodate increased voter choice and elimination of separate primary elections. They could also start the special election process as soon as a senator announces an early retirement or daringly explore allowing senators to run for office with a running mate who would fill a short-term vacancy before the special election.

No matter how innovative, however, state action is not enough. As the partisan debate in Massachusetts demonstrates, establishing special elections is prone to the whims of shifting political tides. To establish a level playing field for all states and better representation for all voters, Sens. Russ Feingold and John McCain lead a bipartisan group of members of Congress in a promising new effort to amend the Constitution to require election of all U.S. senators. Already approved in its first Senate committee, this legislation just may accomplish what democracy demands: giving voters the last word.

(MCT)

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