Israel and America -- Brazen Criminal States

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When War Criminals Dismiss International Law as "Obsolete"

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Illegal white phosphorus shell exploding over Gaza

I The Usual Suspects

Back on August 23, 2010 Israel's most prestigious human rights organization, B'Tselem released a short report on the condition of water supplies in the Gaza Strip. Referencing the United Nations Environment Program as well as the Palestine Water Authority, B'Tselem reported that the Strip's underground water system is in such bad repair that, even if rehabilitation was begun immediately, it would take twenty years for it to be restructured as a modern system. This is compounded by the dilapidated state of the Gaza wastewater-system which is also antiquated. As a result it is estimated that "40% of the incidence of disease in Gaza is related to polluted drinking water." B'Tselem blames this shocking situation on the Israeli government. "Since it began its siege on the Gaza Strip, in June 2007, Israel has forbidden the entry of equipment and materials needed to rehabilitate the water and wastewater-treatment systems there." The blockade of these materials remains in place to this day. Finally, during its "Operation Cast Lead" invasion of the Gaza Strip, Israel targeted the water networks, treatment plants, wells, and even home water tanks.

Israel's great power patron is the United States. This arrangement entails American protection of the Zionist state from the legal consequences that should result due to its purposeful harming of civilians. The United States, sitting as a permanent member of the UN Security Council has, in recent years, cast some forty vetoes so as to shield its ally from accusations of violations of international law. Actually this action by the United States is entirely logical. Why so? Because both the U.S. and Israel are practicing the exact same tactics against civilian populations.

Back in September 2001 George Washington University professor Thomas Nagy revealed the

existence of Defense Intelligence Agency documents “proving beyond a doubt that, contrary to the Geneva Convention, the U.S. government intentionally used sanctions against Iraq to degrade the country’s water supply after the Gulf War. The United States knew the cost that civilian Iraqis, mostly children, would pay, and it went ahead anyway.” On May 12, 1996 some of the horrible consequences of this policy were revealed when the CBS news program 60 Minutes reported that roughly half million Iraqi children had died as a consequence of U.S. imposed sanctions. This led to Secretary of State Madeleine Albright’s infamous answer to the question, “is the price worth it?” Her reply was yes “we think the price is worth it.” Albright later apologized, not for the murderous policy for which she was partially responsible, but rather for the fact that her answer to the above question had “aggravated our public relations problems” in the Middle East. As to domestic reaction, her comment “went unremarked in the U.S.” Subsequently, in 2003, the U.S. invaded Iraq using the strategy of “rapid dominance” (more popularly known as “shock and awe”). The object of this strategy was to “paralyze” the enemy’s “will to carry on” through the disruption of “means of communication, transportation, food production, water supply, and other aspects of infrastructure.” One of the targets of the bombing campaign that led off the invasion was Iraq’s electrical grid. That directly impacted the country’s ability to process clean water.

II. Resulting Criminal Status

Neither American nor Israeli behavior is legal under international law. It is all a violation of Article 54 of Protocol I, Part IV, of the Geneva Conventions (1977). The law reads, “It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as …drinking water installations and supplies…whatever the motive whether in order to starve out the civilian population, to cause them to move away, or for any other motive.” What this means is that the political leaders of the United States and Israel (among other countries) who have devised and implemented this, and similar strategies, are indictable as war criminals. Further, they almost certainly know this to be so. That is why they must dismiss international law as “obsolete” as did Attorney General Alberto Gonzales and his minions in 2004.

As to “motives” for purposely destroying the civilian infrastructures of whole nations, it would seem that in both cases, that of the United States in Iraq and Israel in Gaza, the aggressors sought to induce the civilian population to either just give up out of exhaustion or turn against the regimes ruling over them. The assumption that such a strategy will achieve such results is remarkably naive. Historically, it has almost never happened. For instance, despite the massive conventional bombing of British, Japanese and German cities during World War II, the populations rallied around their flags! And so, one can conclude that our present leaders and strategists who pursue such an end through these means simply know no history. This is a good example of a case where ignorance, here leading to massive death and destruction, is a de facto criminal state of mind.

III. The Issue of Double Standards

This state of affairs raises the seminal question of what will be the fate of international law as it applies to the protection of civilian populations? Today, the most we can say is that enforcement is selective and, in a certain odd way, “class based.” In other words if you are the leader of a small state lacking a great power patron you are indeed subject to this sort of international law. For example, if you are the leader of Serbia, Sudan, Chile, Rwanda, Congo, etc. and persecute civilian populations you have a rather good chance of being brought before a tribunal such as the International Criminal Court. If, however, you are an American, Israeli, Russian, Chinese or British leader, etc. you have almost zero risk. You know the statue of Justice standing blindfolded holding up a scale? Well, she is peeking.

However, there is an interesting loop hole that can lead us around the problem of double standards. Since the 1990s the concept of universal jurisdiction has gained popularity. This is the legal notion that ordinary people in one country can seek to bring to trial those who allegedly violated public international law in an altogether different country. It is under this law that General Ernesto Pinochet of Chile was detained in England in 1998. Of course, the aged general, who was responsible for the deaths of tens of thousands of his countrymen, was relatively "lower class." That is, he was the ex-dictator of a country that has no real influence in the international arena and no great power patron. So, he was vulnerable.

What happens when such a law is applied to Americans or Israelis? Well, in 2003 U.S. Defense Secretary Donald Rumsfeld, in what can only be described as an act of imperial blackmail, threatened to remove NATO's headquarters from the city of Brussels unless "Belgium revoked legislation giving its courts the power to prosecute foreigners for alleged war crimes committed anywhere in the world." Rumsfeld was reacting against a move by Belgian human rights lawyers seeking the indictment of General Tommy Franks, then commander of U.S. troops in Iraq, for the illegal use of cluster bombs against civilian populations. The Belgian government quickly amended their universal jurisdiction law to meet American demands. Then in May 2010 Israel's opposition leader Tzipi Livni found that it was inadvisable to visit England because there was an arrest warrant waiting for her. The charge was war crimes associated with the Israeli invasion of Gaza. This attack took place while she was Foreign Minister. Livni was not Pinochet. For one thing she had a great power patron in Washington, and secondly the U.K. itself has a powerful Zionist lobby. The British government quickly announced that it would seek to rewrite the country's law on universal jurisdiction.

IV. Conclusion

The rules produced by our legislatures, by the United Nations Charter and by our ratified treaties are not supra-human. We make them for our own benefit so that we may live in communities with congenial standards of behavior and thus pass our days productively and in relative security. And, since we make them we can unmake them. That is exactly what too many of our leaders are now trying to do in terms of public international law. They have contrived such double standards that the laws against the wanton slaughter of civilians simply do not apply if committed by the strong. It is only the weak who are to be held accountable for their crimes.

If those in civil society do not like this arrangement they will have to fight hard against it. And here in the West it is our own state institutions and their leaders that we must fight against, for it is they who are the most ardent hypocrites when it comes to international law. It is they who demand immunity for the slaying of the innocent (who they conveniently dehumanize as "collateral damage"). They refuse to go after their criminal predecessors lest they too be held responsible for similar crimes (as in the case of President Obama). Where necessary they bully others into turning a blind eye to their crimes (as with Defense Secretary Rumsfeld). And, if we in civil society, press them hard they will simply seek to change the law to suit their dehumanizing policies. We might here repeat a question once asked, some 94 years ago by a Russian legislator who stood appalled by the bloody slaughter brought on by his government's strategy during World War I. He asked, "is this stupidity or is it treason?" I will leave the reader to seek his own answer.

There are so many battles to be fought that one can easily get frustrated and discouraged. In truth, however, they are really all just parts of a larger struggle. They add up to the struggle for humane rules, their universal application, and no double standards. The law must cease to be "class based." Only then can one approach a less unjust society than our present one. It is really a battle for the type of world we want to live in – our world or theirs.

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