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In July 2004 Israeli jurists on the High Court of Justice (HCJ) deliberated on Israel's separation wall in the occupied Palestinian West Bank. The International Court of Justice (ICJ) at The Hague had just determined, by a vote of 13 to 2, that the 30-foot-high wall was part of Israel's policy of building settlements on stolen or confiscated Palestinian land, and had condemned it as an illegal land grab, which other states should not recognize. The UN General Assembly almost immediately called on Israel to comply with the ICJ advisory opinion and end its illegal wall building, whose real aim was the defense of settlements, not Israel itself.

Palestinian wall

But Israel refused. Its High Court jurists in the case of the villagers of Beit Sourik essentially supported the policy of their government rather than the ruling of the ICJ. The Israeli judges determined that the occupier had to aim for a proper "balancing of interests" or "rights," so that both sides could be made secure. In their view, balancing denoted "proportionality"--proportionality in self-defense and in every other right--for a militarily occupied zone is precisely, as legal scholar Martti Koskenniemi's termed it, "a zone of proportionality" in which all the powers of sovereignty accrue to the occupying authority.

This eminently "reasonable" balancing-of-rights approach to the law of occupation strengthened the powerful Israeli occupier while undermining the right to freedom and self-determination of the powerless Palestinians. Thus Israeli military commanders could continue violating the rights, taking the land, and destroying the property of local Palestinians in the interest of Israeli occupiers in illegal settlements.[i]

Jump ahead four years to late December 2008. In the roughly eleven and a half month period preceding the Gaza war, the IDF killed 413 Gazan Palestinians, including many civilians, whereas a Gaza-launched missile killed one Israeli.[ii] At that point Israel spurned the possibility of a renewal of its six-month-long ceasefire with Hamas (Gaza's democratically elected government), turned the coastal enclave into a war zone, and prevented the Palestinians from fleeing. But it allowed 200 "non-Palestinian wives" to leave.[iii] On this occasion Israel's 41,000 lawyers, with few exceptions, remained silent about racial-gender discrimination and the use of force in the "zone of proportionality."[iv]

Despite the HCJ judges' liberal rhetoric about balancing rights, once the IDF launched its assault on Palestinian civilians the policies and acts of their own government alone held sway,

overriding international law. Only courageous journalists, academics, and peace activists on the tiny Israeli left dared discuss the slaughter in the light of the Fourth Geneva Convention, which Israel trampled on. As the de facto occupying power in conquered Gaza, Israel failed to protect the safety of the indigenous population. Rather than attempt to properly "balance" "considerations of security and the rights and interests of the local population," the IDF targeted the local population. For reasons unrelated to either military necessity or self-defense, it wantonly killed and destroyed the private property of individuals, their governing authority, and their political and social organizations. But even to say that Israel acted in breach of many Geneva articles is to grossly understate its war crimes and crimes against humanity.

Historical Background and Questions

Ever since Israel conquered the remaining Palestinian territories in June 1967, labeled the West Bank the Jewish provinces of Judaea and Samaria, and illegally annexed Palestinian East Jerusalem plus Syria's Golan Heights, it has stood in violation not only of the Fourth Geneva Convention but many other foundational norms of international law. Furthermore, Israel has refused to sign the 1977 Protocols to the Geneva Conventions, which gives protection to peoples "fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination."[v] It has repeatedly carried out acts that the Protocols prohibit, including "targeted assassination" of political and military leaders, hostage taking, reprisal bombings, and the collective punishment of civilians under occupation. All of these acts constitute war crimes. Indeed, for over four decades this colonial-settler state has turned "Judea and Samaria" into a code word for colonization that dehumanizes all Palestinians, steals their land and water resources, and imprisons and tortures them at will. Over time Israel's savage behavior, typical of European and American colonial settler-regimes in many parts of the world, has edged ever closer to genocide without seeming to cross into it.[vi]

In 1948-49, the newly born Israeli state inflicted a massive catastrophe on several hundred thousand Arabs of Palestine whom Israeli soldiers expelled from their land and property without compensation or right to return.[vii] Nearly two decades later tiny Israel expanded its territory at the expense of numerically far superior but militarily weaker Arab neighbors who surrounded it. During the six-day war of June 1967 Israel breached its 1949-67 borders and took over from Egypt the tiny Gaza Strip, and from Jordan the much larger Palestinian West Bank and East Jerusalem.

Thereafter, driven by the dominant racist strain of Zionist political ideology and drawing on the repressive police practices established by British soldiers and police in the last decade of their Palestine Mandate, Israeli leaders disfranchised the Palestinians and subjected them to a regime of extremely harsh political repression, personal humiliation, and relentless economic exploitation—all supported by American tax dollars and defended by most of the organized American Jewish community. Palestinians living in crowded refugee camps and scattered throughout the Middle East responded in myriad ways, formed organizations of nationalist resistance, and tried to alert the world to their oppression. Some hijacked airliners and committed criminal acts of terrorism. Most simply endured. Twice, in 1987-91 and 2000, they rose up in sustained but ultimately unsuccessful attempts to end Israeli rule.

The Gaza rampage earlier this year continued the pattern of uncritical U.S. (and to a lesser extent European) support for Israel's illegal use of force. Like Israel's "summer war" on Lebanon in 2006, it spurred public debate in the U.S. at the local level on obvious questions that Congress refused

to address: Why, for example, is Israel not held accountable under international law for war crimes against Palestinians extending over six decades? Why does Israel suffer no consequences for being the only state in the Middle East region outside the Nuclear Non-Proliferation Treaty known to possess nuclear weapons, while Iran and Syria are harangued and threatened over their entirely legal civilian nuclear programs under the non-proliferation treaty?[viii] Why do U.S. policymakers align with Israel in asserting a non-existent threat to U.S. interests from a future nuclear-armed Iran, yet continue to resist calls by governments around the world for a nuclear weapons-free Middle East?[ix] Is it the "Israel lobby" that equates the critics of Israel with anti-Semitism, that prevents Congress from addressing these issues? Examination of Israel's recent behavior and the nature of the Israel-U.S. relationship can shed light on these questions.

Timing the Rampage, Discerning the Goals

On December 27, 2008, Israel attacked the densely populated, 140 square mile, Gaza Strip (population 1.5 million) from which it had unilaterally withdrawn three years earlier while retaining full control over Gaza's land borders, sea coast, air space, and economy, thus continuing its occupation de facto. The attackers sought to terrorize the Strip's imprisoned civilians, destroy their morale, weaken the popular Hamas civil government and its small, poorly armed military wing. Although Palestinian retaliatory, home-made rocket and mortar fire into southern Israel--often indiscriminate and thus illegal--provided IDF officers with their justification, plans for Israel's devastation of Gaza had been prepared nearly two years earlier.[x]

Gaza War scene

In the second week of their assault, around mid-January 2009, the cabinet decided to unilaterally wind down hostilities without a truce agreement. The Livni-Rice "memorandum of understandings," signed January 16, allowed Israel to bypass Hamas in ending the fighting while obtaining more U.S. military aid on top of the $30 billion granted in 2007, plus more intelligence assistance. It committed the US to deeper involvement in Israel's ongoing war against the Palestinians, while attempting to guide Egypt on how to mediate a ceasefire that would end cross-border smuggling of arms into Gaza. Egypt quickly denounced this high-handed agreement while President Obama quickly endorsed it.

The Obama administration also persisted in demonizing Hamas and Hezbollah by calling them "terrorist organizations"--indicating that he sees them as Bush did, within an ideological framework of "war on terrorism." In fact, neither organization fits the terrorist label though both employ terror as a tactic, as does, on an incomparably greater scale, Israel and the U.S. Hamas leads the Palestinian national liberation movement in the Strip and, to a limited extent, in the West Bank, where its members and supporters are often arrested by Fatah police and military forces who are being trained by an American general, working in tandem with Israeli troops and Shin Bet intelligence agents.[xi]

When Hamas first came to power (January 2006) in free and fair elections for the Legislative Council of the Palestinian Authority, the world's most powerful governments immediately ostracized it. Yet Hamas, which Israel initially supported in order to undermine secular Fatah, remained the dominant force within the Palestinian people's largely secular national liberation movement. As Israel tightened its economic blockade and increased its killing of Palestinians, Hamas's small military wing continued to retaliate, as did smaller Palestinian groups that Hamas does not control, such as Islamic Jihad and the Popular Front for the Liberation of Palestine.

Israel's leaders did not respond diplomatically to Hamas's control of Gaza nor did they try to exhaust all political means before resorting to force, as required by Article 51 of the UN Charter. They chose instead to wage a campaign of armed aggression with the aim of devastating the urban-dwelling Palestinian refugees who support Hamas. Their intention was to prove to Palestinians living in all parts of Israeli and divided, occupied Palestine that armed resistance is futile. In the process, the war cabinet hoped to restore the IDF's reputation for using massive, disproportionate force to shock and terrorize all enemies, Iran in particular. Many foreign observers and apologists for Israel's actions called this goal the strengthening of IDF deterrence, which had been undermined by Hezbollah guerillas who were widely perceived as having defeated the IDF. As it turned out, the Gaza war strengthened the Palestinian will to survive and continue the struggle, but had no discernible effect on Palestinian perceptions of IDF deterrent power.[xii]

The Punishments

The Gaza assault began with a massive surprise air attack in broad daylight on December 27, 2008 on Hamas's civilian police cadets. According to figures released by a Hamas spokesman, in the first few days of the Israeli attack 112 fighters from its small military wing, the Al Qassam Brigades, lost their lives, as did 180 Hamas policeman. A smaller number of fighters from other Palestinians organizations also died in the campaign's opening phase. Unverifiable estimates of Hamas overall fatalities published in the New York Times and other Western sources vary greatly from 280 to 700.[xiii] What these figures suggest is that Israel's massive firepower weakened the fighting strength of Hamas in the first few days, after which the guerrillas, aiming at survival rather than resistance, simply melted away.

That was impossible for the non-combatant population, especially those living in areas thought to be harboring Hamas leaders and fighters.[xiv] They had no place to hide. According to "The Palestinian Centre for Human Rights," in the three weeks between December 27, 2008 and January 18 the IDF killed not 1,300 as first reported but "1,434 people, including 960 civilians, 239 police officers, and 235 fighters."[xv] Of this number 288 were children and 121 women; a further 1,606 children and 828 women suffered injuries. Israeli soldiers trapped Palestinian civilians in their homes and apartments and murdered them when they attempted to leave bearing white flags.[xvi] Israeli army tanks and snipers deliberately targeted women and children, hospital workers, ambulance drivers, doctors, medics, mobile clinics, clearly marked hospitals, the UN university, people in the immediate vicinity of the UN school in the Jabaliya refugee camp, and people seeking refuge inside the UN school in Asma, Gaza City. The International Committee of the Red Cross (ICRC) publicly complained that the IDF repeatedly denied its rescue crews access to bombed out areas such as in Zaytoun, south of Gaza City, where they later "found at least 15 bodies and several children--emaciated but alive—in a row of shattered houses . . . and accused the Israeli military of preventing ambulances from reaching the site for four

days."[xvii]

Senior IAF officers readily admitted to journalists that their strategy "is to use tremendous firepower on the ground to protect Israeli soldiers during fighting in civilian areas." "'For us, being cautious means being aggressive,' said one officer. 'From the minute we entered, we've acted like we're at war. . . . When we suspect that a Palestinian fighter is hiding in a house, we shoot it with a missile and then with two tank shells, and then a bulldozer hits the wall. It causes damage but it prevents the loss of life among soldiers."[xviii] With that end in mind, Israeli soldiers in densely-populated Jabaliya City took over homes, used them as military bases, and often forced non-combatant Palestinians to act as "human shields" or hostages, protecting them as they entered other houses in search of Hamas fighters. The tactic of endangering civilians by putting them in harms way is a war crime under the Geneva Conventions.[xix]

Army rabbis, given access to the battlefield, also encouraged the soldiers to act in violation of international law by not distinguishing between combatants and civilians. Under instruction from chief army rabbi, Brig. General Avichai Rontzki, they disseminated messages of hate and cruelty toward all Palestinians, whom they dismissed as gentiles. The IDF rabbinate, citing the words of Jerusalem rabbi Shlomo Aviner, also told the soldiers to "show no mercy," for they were waging a war on murderers who "took advantage of the broad and merciful Israeli heart."[xx]

The resulting physical and environmental destruction was enormous and impossible to justify in any way, let alone on grounds of "self-defense": over 4,000 homes completely destroyed, another 15,000 to 21,000 badly damaged, an estimated 5,000 to 100,000 people rendered homeless, forced to live in tents provided by the UN or under concrete blocks. Water-wells and water treatment systems were destroyed. The Palestinian parliament, main ministries, central prison and nearly all police stations were systematically destroyed. Reduced to rubble were 21 medical facilities, about 1500 factories, many workshops, a dairy, a health products store, and a university building. Seven Gazan schools were "totally destroyed and 135 "substantially damaged." Israeli soldiers even "trashed" children's school rooms and destroyed their educational materials. And, as the IDF does regularly in the West Bank, they used tanks and bulldozers to destroy agricultural land and olive orchards, so as to insure that the damage to Palestinian health would continue long after the war.[xxi] The IDF also destroyed 41 mosques, which they claimed were being used to store weapons, 35 UNRWA and governmental schools, and most of the Palestinian factories still in operation. With Israel sustaining 10 military and 3 civilian deaths, even the most casual observers of the conflict found the 100 to 1 "kill ratio" shockingly lopsided.[xxii]

What strategic danger to the "Jewish state" warranted the IDF to commit war crimes and inflict a loss of life and a degree of physical destruction in the most densely populated parts of Gaza that rivaled in scale what it had inflicted, also with U.S. support, on Lebanon on four different earlier occasions: the invasion of 1982, "Operation Grapes of Wrath" in 1993, the massacre of Lebanese civilians at the UN compound in Qana in 1996, and the war of 2006?[xxiii] Or was it rather a matter of Israel simply choosing to ignore international law and institutions, knowing its Superpower patron would protect it, just as the U.S. protects it from the scrutiny of the NPT?

The U.S.-Israel Relationship

In the history of colonial-settler regimes one finds countless instances of vindictive targeting to suppress the resistance of an indigenous population, but also cases where strong imperialist powers, in return for services,

underwrite the aggressive wars of their regional clients.

In the planning, preparation, and execution of the Gaza war the U.S. enabled and reinforced Israel's actions--to the profit of American manufacturers of armaments and information technology. The U.S. government furnished the white phosphorus munitions which Israel's air force dropped and its artillery and tanks fired into Gaza's densely populated urban areas, refugee camps, and near a UN compound. White phosphorus burned the flesh of Palestinians beyond the fourth degree, poisoned their bodies, and made breathing difficult. It remained within structures where it would reignite if disturbed. Israel's use of this weapon whose effects cannot be controlled was another clear violation of international law, including the prohibitions contained in "Protocol III of the Convention on Certain conventional Weapons."[xxiv] In Iraq and Afghanistan the U.S. military uses white phosphorus not only as an obscurant but in air and artillery strikes on civilians living in densely populated villages. Cases have been reported of white phosphorus munitions and conventional bombs dropped by US-NATO forces on densely-populated Afghan villages, the most recent one (Garani village, Farah province, May 4, 2009) killed an estimated 140 or more Afghani civilians, mostly children and teenagers, and left many others horribly burned.[xxv] In Gaza Israel committed the very same sort of war crime with U.S.-made chemical weapons and bombs. Specifically, the IDF used white phosphorus to burn down numerous structures, including apartment buildings, government offices, the UN school in Beit Lahiya in the northern Gaza Strip, the main compound of the UN Relief and Works Agency in Gaza City, and warehouses holding humanitarian food aid.[xxvi]

It has been alleged, though never proved, that cancer-causing experimental "dense inert metal explosives" or tungsten bombs were supplied by the U.S. and fired at the Gazan civilian population by the IDF, thus adding to the chaos of the one-sided killing. Israeli tanks commonly "fired flechettes, 4cm long metal darts in civilian neighborhoods" and flechette-filled shells, which "explode in the air and scatter in a conical pattern over an area about 300m wide and 100m long," and this specific munition contributed to the high civilian casualties. Its very use was considered by many nations to be an illegal form of indiscriminate attack on civilians.[xxvii]

Israeli forces attacked Gazans mainly with high-tech American weapons: F-16 fighters, M-60 tanks, and heavy artillery. The Bush White House, which gave a green light for Israel's operations, also provided intelligence cooperation and full diplomatic support, even attempting to block a cease-fire resolution in the fifteen-member Security Council. By stopping most humanitarian aid from reaching Gaza, the US was fully complicit in Israel's imposition of illegal collective punishment against the Palestinians.

Nor does American complicity stop with diplomatic support and military aid. While Israeli forces were attacking Gazans and wantonly destroying their property, American commercial media and elite "journalists", in tandem with the organized, highly influential, right-wing Israel lobby--AIPAC, ADL, and assorted Jewish pundits and Christian Zionists—uncritically transmitted Israeli propaganda and helped to keep many Americans, including most Congressional leaders, in line with official U.S.-Israel policy.

Israel's war against the Palestinians depended heavily on the strategic partnership that the U.S. had forged with the Zionist state as part of its strategy for dominating the oil-rich Middle East through client regimes. In 1948-America, around the time of Israel's birth, anti-Semitism and racism was widespread. Yet this did not prevent State Department officials from recognizing the usefulness of having a white European state

strategically situated near the oil-rich Arab countries; nor did it prevent Pentagon generals from highly rating Israeli military skills. Both appreciated that Israel could be a very dependable base for the realization of American goals, which centered on controlling the world's richest oil producing region, but also an encumbrance in their pursuit. In different periods, Israel has indeed functioned as a military asset, an intelligence outpost, a platform from which to conduct destabilizing operations against out-of-favor regimes, and through which to route armaments to endangered U.S.-installed dictators, as in the secret Iran-Contra affair.[xxviii] But Israel has also been a constant source of U.S. concern, initially because of its mistreatment of the Palestinian refugees and discriminatory actions with respect to Palestinians and their property in East Jerusalem; its border clashes with Arab neighbors; and its inflexible policies toward Palestinians, Lebanese, and Syrians from 1967 onwards.

The foundation for the U.S.-Israel geo-strategic partnership was laid in the 1940s, when the U.S. secured overall control of Middle Eastern oil resources; but the relationship took its present shape only as favorable political conditions developed during the 1960s. Israel's staging of the Eichmann show trial in Jerusalem in 1961 "re-energized" both the legitimization of the Jewish state and American Jewish identity, while tying both to the idea of "absolutely unique Jewish suffering and the absolute 'Evil' of anti-Semitism."[xxix] Thereafter the stark failure of the U.S. effort to suppress the national liberation movement in Vietnam, in contrast to Israel's resounding military victory over the Arab states in 1967, created an American political climate supportive of a stronger tie. As Noam Chomsky has shown, the main service Israel performed that year for the U.S. and Saudi Arabia, Washington's other Middle East client, was to have smashed the forces of secular Arab nationalism, led by Gamal Abdel Nasser's Egypt. Egypt under Nasser was also "a pillar of the non-aligned movement" which the U.S. was bent on destroying. That act of destruction consolidated the relationship. In return for this double achievement, the U.S. government gave "tacit support for de facto Israeli annexation" of Arab lands and thereafter deliberately "entangled a political settlement of the Israel-Palestine conflict with the US-Israeli 'special relationship.'"[xxx]

A few years later in September 1970 Palestinian nationalists threatened the Jordanian monarchy of King Hussein, another U.S. ally. Israel came to the rescue by preventing Syria from aiding Palestinian fighters who were being killed by Jordan's army with the aid of Saudi Arabian forces and air units from Pakistan.[xxxi] Then in 1979, when U.S. policy-makers completely lost control of Iran after having overthrown its democratically elected government and installed a repressive monarchy, the U.S. began to deepen its reliance on Israel's policing, intelligence services, and arms exports to Iraq.

During and long after the cold war, however, there was nothing particularly "special" about the actual role that Israel played for the US. It remained a typical client state of the unsinkable-aircraft-carrier-type, like Britain, providing help for U.S.-supported dictatorships and oligarchic rulers around the world. Among the "secondary services" (Chomsky's term) that Israel furnishes are help for the different offices of the U.S. executive-branch when they wants to circumvent Congressional restrictions on aid to dictatorships that practice torture; selling made-in-Israel weapons and information technology to the Gulf states and even to the U.S.; and attempting to sabotage Iran's nuclear project. Under Clinton and Bush II, Israel even carved out a role in helping the U.S. and UK-led NATO expand eastward towards Russia's borders. And in 2007-8 elements of the IDF participated in the failed U.S. effort to turn Georgia into the "Israel of the Caucasus."

It is mainly American domestic politics and the

highly visible role the organized American Jewish community plays in support of Israel that makes Israel seem different. Certainly Israel's illegal actions against the Palestinians often inflame Arab opinion and cause serious problems for the corrupt, torture-practicing dictatorships that Washington relies on for control of Middle East oil resources. There is also rising criticism over Israel's ability to subvert official U.S. Middle East policy by lobbying Congress members, the White House, and the leaders of the Democratic and Republican Parties, and by "mobilizing American Jewish leaders who . . . call on their constituents for lobbying and publicity purposes."[xxxii] The "pro-Israel" lobby, centered on the American Israel Public Affairs Committee (AIPAC) has grown so powerful that for many Americans it invokes the memory of the German-American Bund in the 1930s, which worked on behalf of Hitler's Germany, or the "China lobby," which supported Chiang Kai-shek's Nationalist regime in its efforts to embroil the U.S. in war against imperial Japan. AIPAC, peddling extremist (Likud) positions on the Palestinians, Hezbollah, Hamas, and Iran, has done great harm to the cause of peace in the Middle East.

Nevertheless, AIPAC is not the only powerful lobby anchored in an ethnic community that undermines the common world good and distorted U.S. foreign policy. The diverse coalition of civic groups that comprise the "India lobby" represent the interests of nuclear-armed India. They helped the Bush regime, in one of its last actions before leaving office, to secure congressional passage of the Indo-U.S. civilian nuclear act, which undercut the Nuclear Nonproliferation Treaty.[xxxiii] It is also highly doubtful that AIPAC, or the "pro-Israel" lobby more generally, determines the course of U.S. Middle East policy. Too many groups play that role, especially the congressional representatives of the corporate military-industrial complex, the lobbyists for the oil and other big business interests, and key elements of the intellectual community. Moreover, the principal function of "pro-Israel" elites in the mainstream media is to demonize popular democracy throughout the world. When these people charge "anti-Semitism," spread lies about foreign governments, and curb freedom of speech it is most often a pretext to silence serious critics of U.S. imperial policy.[xxxiv]

From the UN Ceasefire Resolution to the Electoral Victory of Israel's Far Right

When the UN Security Council, on January 7, 2009, passed a ceasefire resolution that failed to specify a time for hostilities to end, the U.S., at Israel's request, abstained from voting. After passage of the UN resolution, the Olmert cabinet continued to press the offensive. Finally, on January 18, after being advised by Obama's transition team "to end the bombing of Gaza and to withdraw its ground troops before the Inauguration," Olmert issued a unilateral cease-fire declaration.[xxxv] Hamas quickly followed with its own truce declaration. The Gaza war wound down without ever ending. Thereafter Israel worked to prevent Gaza's reconstruction and the realization of an independent Palestinian state. In the West Bank it continued its aggressive blockade; in Palestinian East Jerusalem it increased its building of settlements, demolition of homes, and eviction of residents; and in southern Israel it placed the Bedouin Palestinians under increased repression.

Concurrently, Israel went on losing what legal scholar Richard Falk termed "the legitimacy war."[xxxvi] High UN officials, including Secretary General Ban Ki-moon, expressed their concern about Israel's violations of the laws of war. Israeli peace activists and human rights organizations collected evidence of IDF war crimes and crimes against humanity.[xxxvii] To encourage the filing of lawsuits abroad the activists listed and circulated the names of Israeli battalion commanders and soldiers who had committed war crimes in Gaza. As this issue unfolded in early 2009, Spain's

highest judicial body, the National Court, announced it would launch an investigation into earlier cases of war crimes allegedly committed by senior Israeli army officers in July 2002, when an Israeli fighter jet dropped a 2,000 pound bomb on the home of a Hamas fighter in Gaza city, wiping out his entire family and wounding 77 other civilians. The Arab League sent a fact-finding mission of judges and legal experts to Gaza through the Rafah crossing to gather evidence of Israeli war crimes.[xxxviii] Against this background of increasing pressure for an independent inquiry Olmert reassured IDF commanders and soldiers that "they are safe from any tribunal and that the State of Israel will assist them in this issue [of war crimes] and protect them as they protected us with their bodies during the military operation in Gaza."[xxxix] Israel, like any sovereign state, boasts of its adherence to international law and claims to have the world's "most moral" army; but when the U.N.'s Human Rights Council established a fact-finding commission under the "pro-Israel" South African prosecutor Richard Goldstone, to investigate violations of international law in Gaza, Israeli officials were reluctant to cooperate.[xl]

Through February and March 2009 Egyptian officials continued to mediate negotiations leading to a cease-fire agreement that would re-open Gaza, and negotiations aimed at reconciling Hamas and Fatah. While these activities proceeded, the results of Israel's February election became known. A fragile coalition government emerged in early April, led by the Likud's Benjamin Netanyahu with Ehud Barack as defense minister and Avigdor Lieberman of the Yisrael Beitenu party—advocate of loyalty oaths for Arab Israelis and an ethnically pure "Jewish state"—as foreign minister.

Meanwhile the Israeli siege of Gaza continued though its second year. The Egyptian-mediated talks stalled. No prisoners were exchanged; all issues in the Israel-Palestinian conflict remained unresolved. President Obama followed Bush's failed policy of refusing to recognize Hamas on the specious ground that Hamas does not renounce violence, recognize Israel's right to exist as a "Jewish state," and honor past agreements. Of course, Israel seldom honors commitments made with the Palestinians. Nor does it accept in good faith a two-state solution. The Bush-Obama conditions are absurd on their face, moreover, for no government would or should abstain from retaliation in self-defense, let alone a colonized people who have a legal right to use violence within limits against their belligerent occupiers. Above all, why should Palestinian refugees and their descendants be forced to recognize in advance of negotiations the very state that leaves un-redressed the injustices it has been inflicting on them and every claim arising from expulsion from their homeland? As for Israel being a "Jewish state," when it is really a multi-ethnic racist state, that oxymoron is now intentionally used as a tactic for avoiding a peace settlement.[xli]

Conclusions

Despite Israel's initial attempt to bar foreign reporters from witnessing the IDF's war crimes, a vast global audience saw on television screens and web sites, vivid pictures of Israel's slaughter of defenseless Palestinians. The result has been an erosion of sympathy and support for Israel in Europe and even the U.S. as reflected in the "boycott, divestment, sanctions" movement.

A second result was that Israel was able to intimidate Iran and Syria, the backers of Islamist Hamas and Hezbollah, from militarily aiding the Palestinians. Iran, locked in U.S.-Israeli-imposed isolation, offered the Palestinians only verbal and monetary support, not badly needed arms and ammunition as alleged by the U.S. and Israel. When Teheran tried to send Red Crescent humanitarian goods by ship, Egypt denied the ship access to Gaza.[xlii] Similarly, the Shi'a regime of Nouri al-Maliki in Iraq was prevented from

helping. In Lebanon, Hezbollah dared not open a second front in support of the Gazans, though it did send limited amounts of secret military aid.[xliii] In the occupied West Bank Israeli troops and Fatah police prevented Palestinians from materially aiding their relatives in the Strip. And in Khartoum, capital of Sudan, the state media belatedly confirmed many months after the fact that in January Israeli drones and bombers killed 119 people in a convoy near Port Sudan City that Israeli officials claimed was "allegedly transporting weapons to Egypt, where they would be smuggled into the Gaza Strip."[xliv] Thus, the IDF's principal achievement in the Gaza war was to isolate the Palestinians and, with the partial exception of Hezbollah, handcuff their allies.

Third, the conditions that led Israel to escalate its aggression continued. The Palestinians, of necessity, persisted in smuggling food through tunnels along Gaza's seven-mile long southern border with Egypt. The Al Qassam brigades that extol armed struggle curbed their rocket fire from Gaza while other armed groups did not. The homemade missiles were militarily useless but they served to communicate an important message: recognize our humanity, lift your illegal siege, and change your practices towards us. For your security will forever be conditioned by our right to live in dignity in our own nation-state. As Khalil Shikaki's opinion poll of early December 2008 indicated, most Palestinians before the Gaza war accepted a "mutual recognition of Israel as the state for the Jewish people and Palestine as the state for the Palestinian people." Even after the Gazan campaign, in late January 2009, a reputable Palestinian poll showed that Palestinians still supported the idea of a two-state solution, as Helena Cobban reported.[xlv] This is the public that the Hamas nationalist resistance movement represents and on whose behalf it will eventually negotiate.

And just as Hezbollah gained strength from Israel's invasion of Lebanon in 2006, so also did Hamas emerge politically stronger in Gaza, the West Bank, and throughout the Middle East. An opinion poll in early February by the Jerusalem Media and Communications Centre showed Hamas had made major gains in popularity at Fatah's expense in the West Bank, though not in Gaza, and that Palestinians regarded Gaza Prime Minister Ismail Haniyeh of Hamas as a more trustworthy leader than Mahmoud Abbas, whom many consider a corrupt Israeli-U.S. puppet.[xlvi] That fact, however, has not deterred the Obama administration from continuing to confer on the Ramallah-based Palestinian Authority and the Fatah organization led by Abbas a public legal status that it should not possess because it does not represent the wishes of the Palestinian people.

The full "blowback" consequences of Israel's actions have yet to manifest themselves strategically across the region. Regimes that had previously favored Israel, however, such as Jordan and Turkey, with which Israel has a strategic relationship, continue to feel the strain of maintaining official ties. Qatar's ruler accused Israel of committing war crimes. Saudi Arabia's dictatorship, fearing its own public, made known its disapproval. The Egyptian dictatorship actively sided with Israel against both Hamas and Hezbollah. But under intense popular pressure it resumed a difficult mediating role between Israel and Hamas. Iran meanwhile announced preparations to try in absentia a large number of senior Israelis whom it accused of committing war crimes.[xlvii]

Outside the Middle East, two Latin American states, Venezuela and Bolivia, severed diplomatic relations with Israel. In Britain, France, Germany, Spain, and Greece, demonstrators marched on Israeli embassies and demanded action from their governments to stop the slaughter. In Durban, South Africa and Western Australia longshoremen refused to unload goods from Israel. In the U.S., small numbers of Jews and

non-Jews dissented publicly and in many places, including university campuses, local activists called for boycotts of Israeli goods and divestment from institutions that support the Occupation. The humanitarian aid that would really matter for the Palestinians would be American grass-roots pressure on Congress and President Obama to end all weapons exports to Israel.

Writing at an early stage of the Gaza assault, Noam Chomsky observed that, "Israel could have security, normalization of relations, and integration into the region. But it very clearly prefers illegal expansion, conflict, and repeated exercises of violence, actions that are not only criminal, murderous and destructive but are also eroding its own long-term security." He added, "those who call themselves 'supporters of Israel' are in reality supporters of its moral degeneration and probably ultimate destruction."[xlviii]

Finally, the Israeli-U.S. Gazan rampage, as well as the U.S.-NATO wars in Iraq and Afghanistan, illuminate certain truths about the world in which we live. One concerns the Hobbesian nature of the modern, secrecy-maintaining, corporate state, built on egoistic psychological assumptions. Critical thinkers in the European legal tradition such as Anthony Carty have argued that the way in which the meaning of the state has been constructed ever since the sixteenth and seventeenth centuries has encouraged and sanctioned war.[xlix] The Hobbesian behavior of modern governments, both long before as well as after 9/11, well illustrates his point.

Secrecy, lying, deception, and cover-up in the conduct of foreign and domestic policy are some of the defining characteristics of the modern Hobbesian state. Government officials rely on these tactics to cover up crimes and to secure the consent of their citizens to actions that they take in their name. In the most violent Hobbesian states that have constitutional democratic forms of government, high officials imbued with the imperial mindset use the same tactics to conceal the process whereby they arrive at policy decisions on the use of force. However, the determining feature of "Hobbesianism," as described by Carty, is a structure of permanent war readiness that allows high officials to wage preemptive war for control of natural resources, to intervene unilaterally in the domestic affairs of geo-politically weaker nations, and to justify such interventions in terms of religious or secular myths that are racist, "Orientalist," or "civilizationist" in nature. In short, realist officials in the Hobbesian state do not hesitate to disregard the rule of law, wage wars of aggression, kidnap and torture official enemies, or outsource dirty work to foreign surrogates.

Ever since World War II ended with the U.S. government pursuing a policy of destroying the urban civilian population of imperial Japan, the United States has been the foremost example of a violent Hobbesian state relying on war and the threat of force to maintain its hegemony. Like Israel, it began as an expansionist settler state. Its politicians, diplomats, and generals, following the path of their predecessors, often reverted to the law of the jungle and justified their actions to their publics with a discourse that exploited fear, cultivated irrationality, and always made national security the ultimate, absolute determinant of their behavior. But what sort of standard is a "national security" that sets aside morality and leaves the power of officials unconstrained by anything but their own utilitarian calculations of costs and benefits?

Second, in this world of Hobbesian states practicing imperialism and conducting their foreign policies in violation of international law, the Gazan war teaches the futility of attempts to apply human rights standards. The human rights principle that Israeli judges introduced into the Israel-Palestinian conflict reeked of hypocrisy. It did nothing to curb Israel's illegal use of force

against a threat from homemade missiles fired by Palestinians. Yet many Western liberals and conservatives still look to human rights and "humanitarian interventions" as humankind's last best hope, forgetting that governments of national states are not necessarily the protectors of their citizens: they use human rights language for their own Machiavellian purposes. Even assuming there is such a thing as a last best hope for peace in the 21st century, it would lie not in "unperfected," hypocrisy-laden, human rights ideology. Rather it would be found in a rhetoric of engagement based on "mutual empathy between peoples" living in an environmentally fragile world, and in formal adherence to international humanitarian law, the Nuremberg principles, the Geneva Conventions and their Protocols. These laws and principles, criminalizing certain kinds of conduct and imposing legal liabilities on heads of state for the choices they make or the crimes they commit while in office, have a tenacious life. They need to be understood, however, as clearly grounded in individual morality and responsibility as distinct from law.[1]

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Notes

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[1] The need for a new rhetoric of mutual empathy and the defense of morality as distinct from law are themes that run through Carty's essays in Philosophy of International Law.

Herbert P. Bix (/authors/view/8613)

Herbert P. Bix, historian and teacher, was born in Boston and grew up in the nearby suburb of Winthrop. After attending the University of Massachusetts-Amherst, he joined the U.S. Naval Reserve and served a tour of duty aboard ships stationed in Japan. He attended Harvard University during the height of the Vietnam War. He has written extensively, in leading journals and newspapers in the U.S. and Japan, on modern and contemporary Japanese history, in ways that have challenged long-established assumptions. His Peasant Protest in Japan, 1590-1884 (http://www.amazon.com/dp/0300052510?tag=theasipacjo0b-20) (Yale University Press, 1992) was widely acclaimed in academic journals as one of the best books ever written on the subject of peasant rebellion in a premodern society. His Hirohito and the Making of Modern Japan (http://www.amazon.com/dp/006019314X?tag=theasipacjo0b-20) (HarperCollins 2000-1) won the Pulitzer Prize and the National Book Critics Circle Award. He teaches at Binghamton University, New York, and writes on issues of war and empire.