Poor Picked On Israel!
Part Two

Last week we began to examine the immorality of the Israeli attack on Gaza. As a way of concluding the moral discussion, we must state that what Israel simply refuses to recognize is that with more firepower comes more responsibility for its use and the consequences of its use, intended or otherwise. But responsibility is a moral category, and Israel seems to lack a conscience. Thus, the world must now be that conscience for Israel. If we have the courage to speak as the voice of conscience would, the best way to sound our conscience is to appeal to international law. The best way to do that is to press President Obama and other world leaders to force Israel to comply with it, by arresting and prosecuting for war crimes those who both ordered and who directly acted to violate international laws of warfare.

Israel was already in sharp violation of international before it launched its latest offensive against Gaza on December 27. Israel was a signatory to the Fourth Geneva Convention, article 33 of which expressly prohibits sieges, as Israel did to the Gaza Strip: "No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited. Pillage is prohibited. Reprisals against protected persons are prohibited."

When it comes to the actual attack on Gaza, Israel has violated numerous international laws. First, Article 51 of the U.N. Charter forbids the use of force against another nation and its people without U.N. Security Council authorization. The only exception to this is for self-defense, which the Nuremberg Tribunal defined specifically as "an instant and overwhelming necessity for self-defense, leaving no choice of means, and no moment of deliberation." That Israel has not met this legal criterion is beyond dispute.

Further, the International Court of Justice has ruled unequivocally that "there is no rule of customary international law permitting another State to exercise the right of collective self-defense on the basis of its own assessment of the situation" (*Nicaragua vs. United States*, 1986).

Third, the Nuremberg Treaty, Article 6, "War Crimes and Crimes against Humanity," explicitly defines war crimes as including "plunder of public or private property, wanton destruction of cities, towns, or villages, or devastation not justified by military necessity." Crimes against Humanity include "murder, extermination, deportation, and other inhumane acts committed against any civilian population… [including] persecutions on political, racial or religious grounds."
Fourth, Convention IV of the Hague Regulations requires first in Article 25 that no "attacks or bombardments, by whatever means, of towns, villages, dwellings, or buildings which are undefended is prohibited." Second, Article 27 forbids sieges and bombardments of non-war buildings, such as civilian households and U.N. schools. It also requires that an invader of another nation's territory take all measures to insure public order and safety.

Fifth, Geneva Convention IV, Articles 22-26, detail who and what is to be respected in the event of an attack by one nation upon another. This includes hospitals, charity buildings, civilian dwellings, and special status given to the sick, wounded, and to children. "

None of this has been respected by Israel in its attacks. It is time for the world to step up collectively and force Israel's hand. One of the best ways to do this is the solution brought forth by Francis A. Boyle, international lawyer and professor of law at the University of Illinois, Champaign. Boyle says that Israel formally accepted, as a condition of its membership in the United Nations, General Assembly Resolution 181 (II), partitioning of Jerusalem, and also General Assembly Resolution 194 (III), the Palestinian right of return. Because the state of Israel has publicly and consistently repudiated both, it has violated its condition for membership in the U.N., and should be suspended "from any participation throughout the entire United Nations System."[1]

In addition, argues Boyle, "the Provisional Government of Palestine must sue Israel before the International Court of Justice in the Hague for inflicting acts of genocide against the Palestinian People in violation of the 1948 Genocide Convention."

I would add that it is certainly within the U.N. Charter to establish an international criminal tribunal to investigate, and prosecute where necessary, the war crimes committed by Israel against Gaza and even Palestine.

Finally, the U.S. may be held liable for damages under Article 16 of the International Law Commission's Articles on State Responsibility.[2] The reason for this is that U.S. has supplied Israel with its munitions and supports Israel's attack on Gaza explicitly and without reservation. If such a possibility was made public in the U.S., and these other procedures recommended by Boyle and others were to move ahead, it would wake people—especially the people of the U.S.—up to the horrors of which their government is partially responsible. One can only hope. But that Israel needs to be punished, and Gaza needs the immediate support of the world, is beyond dispute. These legal means are the best way to get the support for Gaza that so far the world has been turning its back from doing.

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[1] Francis A. Boyle, "International Law and Israel's War on Gaza," *ZNet*, January 23, 2009.
[2] Quoted by Judge Currie, "Preventive War and International Law after Iraq."