

## Global Tragedy of Denial

by trudy Saturday, Aug 2 2014, 3:01am

international / prose / post

### **Gaza: the Israeli slaughter of civilians and targeting UN safe zones**

*To repeat endlessly that Israel is intentionally committing crimes against humanity and war crimes in Gaza is frustrating but must be done to constantly indict the clearly BIASED UN and ICC for their orchestrated LACK of real action regarding U.S. and Israeli crimes -- the current slaughter is only the latest of many previous Israeli criminal strikes on Gaza while the UN, ICC and World watched on!*



*But it's easy to point the finger at others when the informed world knows that it is to blame and must shoulder responsibility for allowing known gangster terrorist states/nations to willfully intimidate and terrorise defenceless, weaker nations.*

*And the band played on while the Titanic sank and the world turned its back on a handful of homicidal sociopathic criminals that have taken over the western media (CFR) and houses of government.*

*However, as we all know, IT STOPS WHEN THE PEOPLE DECIDE IT SHOULD STOP -- in the meantime hang your disgusting, cowardly heads in SHAME!*

From the SMH:

### **Gaza: Law of war needs testing at International Criminal Court**

by Geoffrey Robertson

International law seems eyeless in Gaza. For more than two weeks the world has watched war crimes apparently committed by both sides: lethal attacks on schools and hospitals, rocket showers aimed at civilians, tunnels chillingly lined with syringes and ropes, and always, the dead and dying children. Now the call goes up from politicians and prelates and the UN Secretary-General for "accountability" and "responsibility" and "justice". That should mean a proper forensic investigation with criminal charges against commanders if the evidence warrants, heard in an international criminal court. It is important to understand why this could happen and why it probably will not.

There is, after all, an International Criminal Court in The Hague, with a prosecutor equipped to investigate and to charge (under article 8 of the ICC statute) precisely those crimes that seem to be occurring in the present conflict. But her power to act arises only in two relevant circumstances. First, by a reference from the Security Council, which is sure to be blocked by one – if not all – of the five permanent members. By the US (always protective of Israel), by Russia (afraid of where a criminal investigation of MH17 might lead), by China (obsessed with state sovereignty), and even by Britain and France for reasons I will shortly consider.

Then there is the alternative basis for empowering the ICC prosecutor: a state party to the ICC treaty (and there are presently 122) may require the prosecutor to investigate international crimes committed on its territory or by its people. Israel has refused to ratify the treaty, thereby depriving itself of a means to hold Hamas to account for rocket attacks and leaving the territory of Gaza (which it dubiously claims not to "occupy") an open question. Can the State of Palestine, were it to ratify the treaty, invoke an ICC investigation into war crimes in Gaza? In 2009 it attempted to do just that in seeking a remedy for "Operation Cast Lead", but the prosecutor refused to accept that it was enough of a state to be entitled to become a party to the treaty. However, in November 2012 the General Assembly accorded Palestine the status of statehood – as a non-member observer state, but a state nonetheless. It has since been permitted to become a state party to 13 international treaties. Might it now – today – accede to the ICC treaty and with the appropriate declarations under that treaty invite the prosecutor to investigate war crimes committed in the territory of Gaza since November 29, 2012?

It might. But why has it not done so already, or over the past 18 months? Because of the pressure brought to bear on President Mahmoud Abbas to refrain from doing so – most heavily from the US but also from Britain and France, whose diplomats claim that any prosecutions of either party for war crimes would undermine peace negotiations. This is nonsense, as all but diplomats must by now realise – their efforts over past decades have come to nought and the blood hatred reignited by the present war will scupper peace for the foreseeable future. Unless, and just possibly, some form of justice process is permitted to begin.

There is no alternative. The Human Rights Council (a body that tilts against Israel) promises to set up an independent inquiry but we have been there before. After Operation Cast Lead, its Goldstone enquiry castigated both sides. But its chairman then retracted the central finding (that Israel had a policy of targeting civilians) and its impact was weakened. There were no prosecutions of Hamas commanders, of course, and although Israel investigated allegations against 400 soldiers, just two were brought to trial; and the only prison sentence – of seven months – was imposed on a soldier for stealing a credit card.

The advantage of an ICC referral is that it would provide a strong incentive to both sides to punish their own criminals effectively, so as to forestall their indictment in The Hague. By bringing military leaders and the politicians who approve their conduct within the "command responsibility" net, there will be a disincentive to the commission of further crimes in the course of this ongoing conflict. Indictments, by spelling out particulars of the charges, will clarify that, for example, deliberately storing rockets in or near a school or hospital is a war crime, as is a decision to bomb that school or hospital in the knowledge that civilians are taking shelter there. Of course, there is a "catch as catch can" quality about international justice, as trials can only be held when alleged

perpetrators are caught. But this can happen – after 17 years in the case of General Ratko Mladic – and even to heads of state.

There is also the need for new precedents in the law of war to limit the behaviour of modern army behemoths. The most wicked use of military might – "Operation Searchlight", conducted by depraved Pakistani generals in Dhaka in 1971 – has gone unpunished, although a few of its perpetrators are still alive. Everyone is wittering on about "the law of proportionality" but few understand it. Obviously it is "disproportionate" if 1400 (mainly civilians) are killed on one side, as against 50 soldiers on the other. But in war law the issue is defined as whether "collateral damage" to civilians by an attack on a military target (eg, a school where rockets are stored) is "excessive in relation to the concrete and direct military advantage anticipated". This allows commanders to think they can get away with shelling the school because the destruction of the rockets gives their side a concrete advantage. A court conviction would bring home to them that no "military advantage" can ever justify the mass murder of children.

That is why the Australian government, with its Security Council position, should encourage the Palestinian Authority to make the appropriate declarations to join the ICC with a request to the prosecutor to investigate the situation in Gaza. There will be objections from Israel and perhaps from Hamas (its war crimes would be investigated as well). There may be pettifogging points of law (can it be a "state" without effective governance of Gaza, etc) which can, I think, be surmounted. The sooner that ICC investigators can begin collecting evidence and interviewing witnesses, the better.

International law is clear on the question of Israel and Palestine: "Israel is entitled to exist, to be recognised and to security, and the Palestinian people are entitled to their territory, to exercise self-determination and to their own state" (Justice Roslyn Higgins' pithy and correct summary). But international diplomacy has failed to bring this about and the present crisis makes the poet Auden's weary point:

I and the public know

What all schoolchildren learn

Those to whom evil is done

Do evil in return.

International justice has not been tried and at a time when, yet again, both sides appear to be breaching the Geneva Conventions and failing to observe the minimum standards of humanity, the ICC offers the only prospect of any accountability. It should be given the opportunity to define and delimit the defence of "military necessity" which is being claimed by both sides. This is the doctrine that Turkey still uses to justify the Armenian genocide and that Rajapaksa trots out (but not in Glasgow) to excuse the killing of 40,000 Tamils. War law must bring home to any political or military leader who considers taking an action that will, foreseeably or inevitably, involve the deaths of civilians, that he must not merely be sure of military advantage: he must be certain of an acquittal when placed in the dock of an international criminal court.

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Jungle Drum Prose/Poetry. <http://jungledrum.lingama.net/news/story-1243.html>