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The Gaza Strip Under Israeli Military Siege

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The following article aims at providing a critical analysis of the Israeli policies towards the colonized Gaza Strip and its Palestinian people. Consequently, it will concentrate on the Military Siege imposed on the Gaza Strip, and on the deliberate Israelipolicy of undernourishment of Gazans. It will be concluded with an analysis of the impact of this policy on the Gazans and the relationship of this policy and Israel's national security.

Before we deal with these issues, it is necessary to analyze the legal status of the Palestinian territories because its status is interpreted differently by a section of Israeli legal experts and by the International Law, international treaties and international legal experts.

Sovereignty and Belligerent Occupation

In accordance with International Law, both the West Bank and the Gaza Strip, i.e. the Palestinian Territories, are considered occupied territories. It has been agreed upon by the international community, including its astounding legal experts, that the proper legal tools that are applicable in cases of belligerent occupation, are the 1907 Hague Regulations, the 1949 Four Geneva Conventions, Additional Protocol I, and customary international humanitarian law.[1]

According to Article 42 of the 1907 Hague Regulations, a "territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised."[2]

Moreover, according to Article 2, the Four Geneva Conventions of 1949 "…apply to any territory occupied during international hostilities. They also apply in situations where the occupation of state territory meets with no armed resistance."[3]

In addition to these international treaties, the UN Charter defines and regulates the legality of any particular occupation. It uses a law known as *jus ad bellum* that clearly states that"Once a situation exists which factually amounts to an occupation the law of occupation applies – whether or not the occupation is considered lawful."[4]

The applicability of the law of occupation is not dependent on "…whether an occupation has received Security Council approval, what its aim is, or indeed whether it is called an "invasion", "liberation", "administration" or "occupation".[5]

Since the very beginning of Israeli occupation of the Palestinian Territories in 1967, the Israeli authorities have avoided using the term occupation and replaced it with the terms, "administration", "liberation", and "disputed territories". In recent years, they succumbed to

the term "territories" as if the Occupied Palestinian Territories (OPT) were territories located on Mars waiting to be defined by Israeli legal innovative experts.

Negation of Occupation by the Levy Report

In an attempt to legitimize the illegal Israeli colonial settlements inside the West Bank, Prime Minister Benjamin Netenyahu set up, in January 2012, a committee of three legal experts that became known later as the Levy Committee. The Committee was chaired by right-wing former Supreme Court justice Edmond Levy (image on the right; source is Wikimedia Commons) and it included also two former right-wing justices, Alan Baker, a settler and Techia Shapira, former deputy president of the Tel Aviv District Court.[6]

The Levy Committee was delegated with the task of investigating the legal status of unauthorized West Bank Jewish settlements. In addition, the Levy Committee also examined whether the Israeli "presence" in the West Bank is to be considered an occupation or not.[7] On 9 July 2012 the Levy Committee issued its report which became known as the Levy Report. Its most important conclusion was

> …that the classical laws of belligerent occupation "as set out in the relevant international conventions cannot be considered applicable to the unique and sui generis historic and legal circumstances of Israel's presence in Judea and Samaria spanning over decades", and that the 1949 Fourth Geneva Convention against the transfer of populations is not applicable to the Israeli settlement activity in the West Bank. The Report concluded that "Israelis have the legal right to settle in Judea and Samaria and the establishment of settlements cannot, in and of itself, be considered illegal".[8]

In other words, the Levy Committee arbitrarily decided that both the 1907 Hague Convention and the Four Geneva Conventions of 1949 are not applicable to the West Bank under Israeli rule. According to the bizarre logic of the three bogus legal experts there is no Israeli military occupation in the West Bank. Instead, there is what they called an "Israeli presence" in the West Bank including Israeli settlements, which were considered by the rightist legal experts as perfectly legal. They based this dubious "legality" on fictitious and

bizarre international law.

Nevertheless, the Levy Report was praised by settler circles and a collection of Zionist right wing writers and politicians. However, a group of Israeli authentic legal experts voiced their criticism of the Levy Report.

In their response to the Levy Report, both human rights legal activists Anu Deuel Lusky of Yesh Din and Keren Michaeli of the Emile Zola Chair for Human Rights, wrote a critical reading and legal analysis of the Levy Committee's conclusions. Both legal experts remarked that:

> A review of the report shows that it chose to ignore hundreds of Supreme Court rulings, dozens of decisions by United Nations bodies and international tribunals, and thousands of articles by international legal experts. All these sources show a rare consensus in the legal community regarding the status of the West Bank as occupied territory. The Levy report does not engage with accepted legal principles and its conclusions lack any legal foundation.[9]

Despite its legal fragility, the Levy Report was taken with utmost respect by the Israeli colonial right. It was later adopted by the Netanyahu rightwing government which stopped using the term occupied West Bank and began to call it "the disputed territories". Later on, they began to call the West Bank and the Gaza Strip "the territories". In other words, "Israel asserts that these territories are not currently claimed by any other state, and that Israel has the right to control them."

In contradiction to this false and weak legal argument, legal experts at the Institute for Middle East Understandingpointed out that the term:

> "Occupation" is a legal status in international law, not just a description of the forceful means by which Israel has controlled the territories it seized in 1967. Although Israeli diplomats contest the designation of the territories as "occupied," and describe them as merely "administered" by Israel, there is no such status in international law.[10]

By rejecting the applicability of the internationally accepted international law to their military occupation, the Israeli colonial right used what could be called "legal acrobatics" to redefine the legal status of the West Bank.

A graffiti of Naji al-Ali's Handala on the West Bank separation wall

Consequently, the actual daily activities of the Israeli army inside the West Bank and the active support of colonial settler vigilantes, who daily shoot, burn, and cut Palestinian olive trees, were both regarded by those bogus legal experts of Levy and company, as being an innocent "presence" of Israelis but not as components of a vicious military occupation. Apparently, it was the fault of the Palestinians who committed a grand mistake by regarding them as vicious military army and vigilantes. Palestinians sick imagination has made up this image with a hidden intention to tarnish the civilized image of these innocent Israelis who happen to be visiting their ancestral country.

Finally, one should conclude this legal argument by asserting that despite the efforts extended by the Israeli dubious legal experts, the West Bank and the Gaza Strip are occupied territories. Therefore, "… Israel has never had any legal rights of sovereignty over any of the lands it took in 1967, and never had any right to settle its own citizens there."[11]

Despite the preposterous argument put forward by Israeli and Zionist propagandists that after the withdrawal of Israeli settlers from the Gaza Strip in 2005, the Gaza Strip is no longer occupied by Israel. This feeble fairy tale does not seriously take into regard that "…Even after its 2005 redeployment, Israel did not release its hold on Gaza; it continues to control all access to the territory, as well as its airspace, territorial waters and even its population registry…"[12]

Gaza Siege and the Diet of the Colonized

The Israeli colonial authorities have frequently used the pretext of security as a justification for its settler colonialist policies pursued, for 53 years, over the Palestinian civilians. The grossly inhuman nature of these policies needed some sort of legitimacy, even fictitious

legitimacy. So, the brutal siege of the Gaza Strip and the consequent restrictions imposed on the Palestinian colonized residents, were in dire need for "legitimacy". Consequently, the mantle of "national security" was thrown on the siege of the Gaza Strip, which is in fact the most brutal colonial siege in the annals of human history.

In a method that is devoid of the slightest segment of empathy and human feelings, Israeli colonial fascistic experts devised a program of starvation for two million Palestinian civilians living inside the Gaza Strip, which is literally a huge open-air prison camp. Starvation was meant to be a punitive policy towards the Palestinian civilians who chose a Hamas government in an internationally monitored parliamentary elections in 2006. The result of the elections was not acceptable by the two Western democracies, Zionist colonialist Israel and imperialist USA. Therefore, they complicity collaborated to get rid of Hamas through a starvation program that chillingly calculated the minimum number of calories that are necessary to prevent the genocide of two million human beings.According to Gisha, an Israeli human rights organization"… Israeli authorities had calculated the number of calories consumed by Gaza residents and used it to establish a "humanitarian minimum", a minimum of food supply necessary for not causing hunger or malnutrition in the area…"[13]

In order to cover up this fascist inhuman program, the Israeli army generals Beni Gantz and Gabi Ashkenazi hid the starvation program under the claim of a fictitious security mantle. "…claiming that disclosure would put national security at risk and damage Israel's foreign policy…"[14] They were forced to disclose their horrible starvation program by "Gisha", which managed to force the IDF, in the court of law, to disclose it. In court, the Israeli ministry of defense

> "… agreed to disclose some of the documents stating that their disclosure no longer threatened national security or foreign affairs. However, it refused to make public the "red line document" which supposedly contained calculations of the most minimal consumption of food in Gaza that the closure policy would not cross…"[15]

This brutal colonial policy towards the Gaza Strip was elaborated by the Israeli colonialist

army in cooperation with the Israeli Ministry of Health. Already on 1 January 2008, a document was produced. It bore the innocent title of “Food Consumption in the Gaza Strip – Red Lines.”[16] According to Major Guy Inbar, the Israeli military spokesman,“… the calculation, based on a person’s average requirement of 2,300 calories a day, was meant to identify warning signs to help avoid a humanitarian crisis, and that it was never used to restrict the flow of food.”[17]

Based on this document, the Israeli colonialist army regulated the exact number of trucks that were allowed to enter the Gaza Strip, bringing in food and medicine. Furthermore, based on this document, the Israeli colonial authorities decided how many Gazans can exit the Gaza Strip for the purpose of receiving medical treatment.

This criminal Israeli policy of denying medical permits and restricting import of medicine to Gaza residents was continued in 2019. In its report “Israel and Occupied Palestinian Territories 2019”, Amnesty International reported the following:

> “In June, 2019 the Palestinian Centre for Human Rights reported an acute medicine shortage for patients with cancer and chronic diseases in Gaza. Israel continued to arbitrarily deny medical permits to Gaza residents to allow them to enter Israel or the West Bank for treatment…”[18]

Saree Makdisi, an author of Palestinian and Lebanese descent, has reported that:

> Patients are dying unnecessarily: cancer patients cut off from chemotherapy regimens, kidney patients cut off from dialysis treatments, premature babies cut off from blood-clotting medications. In the past few weeks, many more Palestinian parents have watched the lives of their sick children ebb slowly, quietly and (as far as the global media are concerned) invisibly away in Gaza’s besieged hospitals.[19]

In reality, the Israeli colonial masters have replaced God Almighty in actually deciding who among Gazan cancer patients, kidney patients, premature babies, should live and get the life-saving medical treatment and who should die.

Deliberate Undernourishment for Security Reasons

To begin with, Israeli military siege of the Gaza Strip went through stages of severity. Actually, the siege did not start in 2006. Preliminary steps of rough and inhuman treatment of Gazans were already taken in 1991 during the PLO-Israeli secret negotiations that preceded the Oslo Accords. Later on, more severe stages that coincided with political developments, took place. According to the analysis of Saree Makdisi, these stages could be pointed out as follows:

> The current squeeze on Gaza began in 1991. It was tightened with the institutionalization of the Israeli occupation enabled by the Oslo Accords of 1993. It was tightened further with the intensification of the occupation in response to the second intifada in 2000. It was tightened further still when Israel redeployed its settlers and troops from inside Gaza in 2005 and transformed the territory into … a prison… It was tightened to the point of strangulation following the Hamas electoral victory in 2006, when Israel began restricting supplies of food and other resources into Gaza. It was tightened

> beyond the point of strangulation following the deposition of the Fateh-led government in June 2007.[20]

The following is a partial list of 54 items, prohibited to import into the Gaza Strip, by the Israeli colonial authorities. It was revealed by the Israeli ministry of defense after it was taken to the court of law by Gisha – The Israeli Human Rights Organization:

> sage, cardamom, cumin, coriander, ginger, jam, halva, vinegar, nutmeg, chocolate, fruit preserves, seeds and nuts, biscuit and sweets, potato chips, gas for soft drink, dried fruit, fresh meat, plaster, tar, wood for construction, cement, iron, glucose, industrial salt, plastic/glass/metal containers, industrial margarine, tarpaulin sheets for huts, fabric (for clothing), flavor and smell enhancers, fishing rods, various fishing nets, buoys, ropes for fishing, nylon nets for green houses, hatcheries and spare parts for hatcheries, spare parts for tractors, dairies for cowsheds, irrigation pipe systems, ropes to tie green houses, planters for saplings, heaters for chicken farms, musical instruments, size A4 paper, writing implements, notebooks, newspapers, toys, razors, sewing machines and spare parts, heaters, horses, donkeys, goats, cattle, chicks.[21]

One wanders about the rationale behind the prohibition of allowing the import of these items into the besieged Gaza Strip. Could it be Israeli “national security”? The prohibition against the import of these items show a discreet number of colonial rationales behind it and a number of colonial aims.

To begin with, there is a calculated attempt to obstruct a number of economic aspects of life of the civilian population of the Gaza Strip. For example there appears an attempt to hinder and obstruct the already weak Gazan industrial base by two methods: (1) prohibiting the import of industrial related items, raw materials and spare parts; (2) the closure of “…5,000 factories in Gaza which were closed down due to the 14-year-long Israeli siege.”[22] This obstruction caused to the industrial base by the Israeli siege of Gaza has forced “…thousands of workers, engineers, accountants and technicians to lose their jobs”[23]. According to member of parliament and head of the Popular Committee Against the Siege on Gaza, Jamal Al-Khodari, “… the Israeli occupation is still imposing a ban on exports and imports and putting many restrictions on the entry of raw materials…”[24]

Another attempt clearly appears to be the calculated policy to obstruct and restrict the development of the agricultural sector. The Israeli siege prohibits the import into the Gaza Strip of agricultural equipment necessary for irrigation, hatcheries, green houses, and fishing. It furthermore, prohibits the import of spare parts for hatcheries and tractors. In addition, the Israeli colonial authorities banned the import of horses, donkeys, goats, cattle and chicks.

The attempt to obstruct both the Gazan industrial base and the agricultural sector, aim at destroying the productive branches of Gazan economy, thus increasing Palestinian economic dependency on the Israeli economy. It further leads to severe levels of unemployment and poverty among the Gazan workers.

Consequently, the prohibition of the import of musical instruments, size A4 paper, writing implements, notebooks, and newspapers, aims at harming the intellectual development of the Gazans. It further creates problems to the activities of the non-government

organizations, government ministries, institutions, political parties, universities and schools.

Finally, the prohibition of importing a number of essential spices aims at obstructing the tastes and cooking culture of the Gazan society, which uses lots of spices in their cooking meals. The targeting of these spices for prohibition reveals the existence of an extreme and dark racist frame of mind by the Israeli colonial army and the Israeli colonial ministry of health. Both of these colonialists calculated and conspired to make Gazans suffer more by eating tasteless food that lack essential spices. These barbaric colonialists insisted on devising advanced inhuman levels in their policy of collective punishment of Gazan stomachs and senses of smelling and tasting.

When taking the entire list of prohibitions into consideration, the tight siege of the Gaza Strip would appear devoid of the slightest relation to so-called Israeli national security. When the security element is completely discounted, the siege of the Gaza Strip appears to be nothing but an expression of a brutal, colonial, inhuman, barbaric and racist practice which has been callously and chillingly calculated by inhuman and alienated generals and functionaries of the Israeli ministry of health. This policy drives at creating deliberate undernourishment andhorrible starvation for two million Palestinians. Therefore, it is a policy of collective punishment which flagrantly contravenes international law.

As a direct result of this brutal starvation program, the health of the people of the Gaza Strip deteriorated to dangerous scales. "…Anemia rates rocketed to almost 80 percent. UNRWA noted at about the same time that "we are seeing evidence of the stunting of children, their growth is slowing, because our ration is only 61 percent of what people should have and that has to be supplemented."[25]

Moreover, Israeli colonial policy towards the Gaza Strip has severely harmed the general health situation of the people of the Gaza Strip. In addition to undernourishment, Israeli colonial policy has led to the following hazardous developments. The people of the Gaza Strip

> … are now essentially out of food; the water system is faltering (almost half the population now lacks access to safe water supplies); the sewage system has broken down and is discharging raw waste into streets and the sea; the power supply is intermittent at best; hospitals lack heat and spare parts for diagnostic machines, ventilators, incubators; dozens of lifesaving medicines are no longer available. Slowly but surely, Gaza is dying.[26]

This state of affairs in the Gaza Strip, has been already confirmed by commissioner general of UNRWA who warned that: "Gaza is on the threshold of becoming the first territory to be intentionally reduced to a state of abject destitution, with the knowledge, acquiescence and — some would say — encouragement of the international community…"[27]

When put under the scrutiny of international law and relevant international treaties, many of the Israeli policies and practices towards the Gaza Strip could be easily regarded as different types of war crimes. The following is an appraisal of some of the war crimes that were committed by the Israeli colonial authorities who were supported and sanctioned by the Israeli government and the various Israeli politicians.

Israeli War Crimes in the Gaza Strip

In accordance with the International Committee of the Red Cross, war crimes could be defined as: "… any serious violation of international humanitarian law constitutes a war crime. This is clear from extensive and consistent case-law from the First World War until the present day.[28]

Moreover, there are two distinguished types of war crimes, those violations "…that are committed willfully, i.e., either intentionally (*doles directus*) or recklessly (*dolus eventualis*)…"[29]

Furthermore, the ICRC has carried out "A deductive analysis of the actual list of war crimes found in various treaties and other international instruments, as well as in national legislation and case-law…"[30] This deductive analysis clearly "… shows that violations are in practice treated as serious, and therefore as war crimes, if they endanger protected persons or objects or if they breach important values."[31]

When it comes specifically to situations of war crimes committed, under belligerent military occupation, against persons or property, the most appropriate instrument to use is the Fourth Geneva Convention of 1949. According to provisions of this Convention, war crimes are any of the following acts[32]:

- willful killing;
- torture or inhuman treatment, including biological experiments;
- willfully causing great suffering or serious injury to body or health;
- extensive destruction or appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
- compelling a prisoner of war or other protected person to serve in the forces of a hostile Power;
- willfully depriving a prisoner of war or other protected person of the rights of a fair and regular trial;
- unlawful deportation or transfer;
- unlawful confinement;
- taking of hostages.

Acts or omissions. War crimes can consist of acts or omissions. Examples of the latter include failure to provide a fair trial and failure to provide food or necessary medical care to persons in the power of the adversary.

On 24 June 2015, the United Nations Human Rights Council, issued a report entitled "Human rights situation in Palestine and other occupied Arab territories", in which it revealed the relevant statistics on the death toll of the Palestinian civilians who were killed by the Israeli army during the aggressive attacks on the Gaza Strip that were conducted in 2014. The Report mentioned that

> "…The death toll alone speaks volumes: 2,251 Palestinians were killed, including 1,462 Palestinian civilians, of whom 299 women and 551 children;[33] and 11,231 Palestinians, including 3,540 women and 3,436 children, were injured (A/HRC/28/80/Add.1, para. 24),of whom 10 per cent suffered permanent disability as a result…"[34]

In addition to that, the Report mentioned that

"…Alongside the toll on civilian lives, there was enormous destruction of civilian infrastructure in Gaza: 18,000 housing units were destroyed in whole or in part;[35] much of the electricity network and of the water and sanitation infrastructure were incapacitated; and 73 medical facilities and many ambulances were damaged…"[36]

The Human Rights Council concluded by accusing Israel of committing "…violations of international humanitarian law … which may amount to war crimes…"[37] It will take lot of efforts until the International Court of Justice will investigate Israeli war crimes. This step depends on the UN Security Council which is legally responsible to take a decision on this issue. As long as the US dominates the Security Council, Israel will have protection and thus can escape impunity.

"…despite considerable information regarding the massive degree of death and destruction in Gaza, the Human Rights Council raises questions about potential violations of international humanitarian law by these officials, which may amount to war crimes. Current accountability mechanisms may not be adequate to address this issue…"[38]

The above mentioned war crimes have been repeatedly committed by the Israeli army, security institutions and settler vigilantes. The killings of Palestinians, by these Israeli authorities, is a daily practice. No serious official investigations are conducted when the victim is a Palestinian Arab. This state of affairs encourages more Israeli perpetrators to shoot and kill Palestinians, not only inside the colonized Palestinian territories but also inside the Israeli settler colonialist state.

So far, no Israeli war criminal has been brought to the International Court of Justice, and the Israeli state has managed to escape impunity, due to the direct support and protection that have been provided to Israel by the imperialist leaders in the West, especially the United States. However, there is no limitation of time on war crimes and Israel might one day pay for the war crimes, the massacres, the daily killings, the destruction of villages and cities, the ethnic cleansing, and the many more war crimes that Israel perpetrated not only in Palestine but also in Syria, Lebanon, Egypt, Iraq and Jordan.

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Notes

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