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European Languages

زبانهای اروپائی

NOVEMBER 16, 2018

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17.11.2018

Israel Cannot Use Violent Self-Defense While Occupying Gaza



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Whenever bombings and shootings escalate in the Middle East, Israeli propagandists say that Israel is exercising its right of military self-defense against indiscriminate attacks coming from the Gaza Strip. But as this article documents, the right to use force in self-defense is contingent on Israel ending its military occupation and blockade of Gaza.

DON'T MISQUOTE ME ON THAT!

Doubtless some unscrupulous person or persons will quote or interpret this article out of context and claim that I'm saying that Israel has no right to self-defense at all. So, let me be clear: Israel is a nation-state like any other, like it or not. It therefore has the same legal

rights as any nation-state, like it or not; including the right to use self-defense when under attack.

However, that right within the context of occupation is contingent on Israel's adherence to international law; again, just like any state. For example: The US and British forces had no legal right to hurt or kill Iraqis resisting the illegal US-British invasion and occupation, which began in 2003. The only rights that the US and British had there was to leave.

Since 1967, Israel has occupied the Gaza Strip (and the West Bank of the Jordan, which it has now de facto annexed) in violation of international law. Yes, Israel withdrew its illegal colonies from Gaza in 2005, but it maintained the military blockade, which is an act of war and a violation of the IV Geneva Convention, which prohibits collective punishment.

As long as it continues its occupation/annexation of the Palestinian territories, Israel cannot use force in self-defense from attacks, even indiscriminate ones, emanating from Gaza. If it ended the occupation and blockade of the Palestinian territories, then it could argue a case for the use of force, assuming peaceful options are exhausted.

WHAT THE LIBERAL MEDIA SAY

Forget the madcap right-wing (e.g., a Fox News reporter standing next to what he claims is a flaming bakery hit by Palestinian rockets). How are the supposedly more intelligent and humane liberal media reporting the current violence?

The BBC says that "Violence has flared between Israel and Palestinian militants in Gaza, a day after seven militants and an Israeli soldier were killed during an undercover Israeli operation in Gaza." Militants? It goes on to say that: "Militants fired 300 rockets and mortars at Israel. One hit a bus, seriously injuring a soldier nearby. Israel responded with more than 70 strikes on what it said were targets belonging to Hamas and Islamic Jihad." Responded? Surely the BBC means to say that armed Palestinian groups responded to *Israel's* actions, which occurred in the context of its unlawful 50-year occupation?

Notice the use of the word "militants." The report doesn't use words like "Zionists" when describing Israelis.

The online article includes an embedded tweet from the Israeli Defense Forces: "RAW FOOTAGE: The skies of southern Israel RIGHT NOW. Dozens of rockets are being fired from #Gaza at Israeli civilians." There is no embedded video of the shocking conditions in which Palestinian civilians are forced by Israel to live (a point to which we shall return). Near the bottom of the article, the BBC approaches something bordering truthfulness when it says: "Israel, along with Egypt, has maintained a blockade of Gaza," but it then goes back to the lies: "...since about 2006 in order, they say, to stop attacks by militants."

The word “occupation” is mentioned not once. So, the gist of the BBC’s reporting is that Gaza is plagued by dangerous Islamists hell-bent on Israel’s destruction and that Israel is doing what it can, sometimes ham-fistedly (as in the latest “botched” special forces operation), to defend itself.

CNN [quotes](#) Israeli PM Netanyahu as saying that “ Hamas vowed to destroyed Israel,” ergo long-term peace was “impossible.”

The *Washington Post* [claims](#) that the latest “flare-up” was “triggered” by a “botched” Israeli operation inside Gaza. It quotes Israeli Army spokesman Lt. Col. Jonathan Conricus, that Israelis under Palestinian rocket-fire face “the most severe attack on ... civilians by terrorist organizations from Gaza since our 2014 operation [Protective Edge].” Near the end of the article, the reporters mention, casually, Israel’s “tight restrictions on trade and travel.” Below, we’ll take a look at what these “tight restrictions” actually mean.

The *New York Times* [describes](#) what is happening as “An eruption,” rather than a continuation and predictable consequence of Israel’s ongoing brutality. It also mentions Israel’s “tight control over the border,” which has endured since 2005, they claim (not 1967 as is the reality), when Israel withdrew its illegal colonies. Approaching truth toward the end of the article, the NTY, unlike the BBC, quotes Chris Gunness of the UN Relief and Works Agency, who describes the humanitarian situation in Gaza for nearly 2 million ordinary civilians, half of whom are children, as a disaster and a “collective punishment.”

WHAT HUMAN RIGHTS GROUPS SAY

With the exception of the Gunness quote, the media have suppressed the severity of the humanitarian crisis in Gaza. The crisis is caused by the US-enabled Israeli blockade. Its importance in terms of the number of people affected vastly eclipses the firing of indiscriminate rockets into Israel by armed Palestinian groups.

The UN Office for the Coordination of Humanitarian Affairs [states](#): “Palestinians in Gaza are ‘locked in’, denied free access to the remainder of the occupied Palestinian territory and the outside world.” [According](#) to the UN children’s fund UNICEF, “more than 96 per cent of abstracted water is polluted and not fit for human consumption due to high salinity levels from sea water intrusion and high nitrate levels from excessive use of agrochemicals and wastewater infiltration.”

Jamie McGoldrick and James Heenan of the UN [say](#):

“All over the occupied Palestinian territory, but particularly in the Gaza Strip, we see children robbed of every right. Families cope with four hours of electricity per day in the sweltering heat. Clean drinking water is expensive and hard to find. The start of the school

year in one month will be very difficult for tens of thousands of families who cannot afford basic school supplies.”

When trapped Gazans resist with overwhelmingly non-violent protest, they receive the following treatment, as [described](#) by a Red Cross doctor, Gabriel Salazar: “We estimate there are over 1,300 people with complex, sometimes multiple injuries,” care of the Israeli Defense Forces responding to the protests, “that will require at least three to five surgeries each. The recovery period may take months or even years and we believe some 400 will remain with temporary or permanent disability.” Many demonstrators are deliberately shot in the legs and [refused treatment](#) by Israel in neighboring Jordan.

IS GAZA STILL OCCUPIED?

Gaza and the West Bank, including East Jerusalem, have been unlawfully occupied by Israel since June 1967. This means that every Israeli military action in those territories, except withdrawal, is unlawful. In November 1967, the United Nations adopted Security Council Resolution 242, which [states](#):

Emphasizing the inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in which every State in the area can live in security,...

1. *Affirms* that the fulfillment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:

(i) Withdrawal of Israel armed forces from territories occupied in the recent conflict...

In 2004, the International Court of Justice [opined](#):

“All these territories (including East Jerusalem) remain occupied territories and Israel has continued to have the status of occupying Power ... Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, are illegal ... The Court concludes that the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law.”

In 2018, the UN Human Rights Council [reaffirmed](#) that Gaza and the West Bank, including East Jerusalem, are occupied by Israel:

“In the resolution, adopted by a vote of 29 in favour, two against [\[the US and Australia\]](#), and 14 abstentions, the Council decided to urgently dispatch an independent, international commission of inquiry, to be appointed by the President of the Human Rights Council, to investigate all alleged violations and abuses of international humanitarian law and international human rights law in the occupied Palestinian territory, including East

Jerusalem, particularly in the occupied Gaza Strip, in the context of the military assaults on the large-scale civilian protests that began on 30 March 2018.”

ISRAEL’S RIGHT OF SELF-DEFENSE

Given that the international consensus is that Israel remains the illegal occupying power in the Palestinian territories (including Gaza and East Jerusalem), Israel has no right to use force to defend itself against Palestinian attacks *while it remains the illegal occupying power*. If Israel ended the occupations of Gaza and the West Bank, it would be entitled to use force in self-defense, assuming that peaceful options are exhausted.

Hyde’s *International Law Volume III* states: “A belligerent,” i.e., Israel in this case, “which is contemptuous of conventional or customary prohibitions,” i.e., Israel continues to occupy Gaza, “is *not* in a position to claim that its adversary,” i.e., Hamas and other armed Palestinian groups, “when responding with like for like,” i.e., rocket-fire into Israel, “lacks the requisite excuse” (emphasis in original).

The Annual Digest and Reports of Public International Law Cases 1948 states: “Under International Law, as in Domestic Law, there can be no reprisal against reprisal. The assassin who is being repulsed by his intended victim may not slay him and then, in turn, plead self-defense.” By the same logic, Israel cannot occupy Gaza, collectively punish the population, and then claim to be acting in self-defense against Gazan rocket-fire.

In response to the Gaza massacre 2014, international jurist John Dugard said: “given the fact that Gaza is an occupied territory, it means that Israel’s present assault is simply a way of enforcing the continuation of the occupation, and the response of the Palestinian militants should be seen as the response of an occupied people that wishes to resist the occupation.”