

Francis Boyle: Israel Is Committing Genocide in Gaza

by Michele Steinberg

Jan. 27—“What we’re seeing in Gaza now, is pretty much slow-motion genocide against the 1.5 million Palestinians who live in Gaza. . . . If you read the 1948 Genocide Convention, it clearly says that one instance of genocide is the deliberate infliction of conditions of life calculated to bring about the physical destruction of a people in whole or in part,” stated Francis A. Boyle, professor of International Law at the University of Illinois in Champaign. “And that’s exactly what has been done to Gaza, since the imposition of the blockade by Israel; then the massacre of 1,400 Palestinians, two-thirds of whom were civilians, in Operation Cast Lead. And that also raises the element in the Genocide Convention, of murder, torture, and things of that nature.”

Boyle spoke to *EIR* on Jan. 15, 2010, giving his assessment of Gaza, one year after the Israeli attacks. He stressed that he was speaking only for himself.

While the Israelis stopped the artillery bombardment and air strikes just before the inauguration of President Barack Obama in 2009, the deaths of Palestinians continue—from lack of medicines, infrastructure, clean water, and everything else that the world community—as shown in emergency aid to Haiti—*knows* is necessary to sustain human life.

But no international action has been taken to stop genocide in Gaza—despite the finding by the UN’s Goldstone Report that Israel committed war crimes in the wanton destruction of civilian infrastructure, and in the killing of civilians, and despite the Jan. 21, 2010 letter by more than 50 members of the U.S. Congress to President Obama that due to “the unabated suffering of Gazan civilians,” he must press to end the Israeli blockade.

Similarly, according to Turkish Prof. Bulent Aras, there is almost no hope for a peace agreement, or for ending the growing isolation of Israel from the international community, unless Gaza is opened and reconstruction begins. Aras was speaking on a Jan. 14 conference call, sponsored by the Turkish SETA and New



Prof. Francis A. Boyle, an expert in international human rights law, charges Israel with genocide in Gaza. But, he believes, that, as South Africa overcame decades of apartheid, Israel can change as well.

America Foundations in Washington, D.C. He was addressing the recent tensions between Israel and Turkey after the Israeli Foreign Ministry insulted the Turkish ambassador, and on the collapse of the Turkish-mediated Israel/Syria negotiations, which ended with the Israeli attacks on Gaza.

According to Boyle, the question of the Gaza opening must be immediately taken up by the Obama Administration. “We need all the openings to Gaza, the crossings from Egypt and Israel, opened immediately. *Massive* provision of humanitarian assistance, medical supplies to Gaza—exactly what Obama’s doing today, with respect to Haiti—I support that! But why aren’t they doing it to Gaza? You have 1.5 million people over there.

“Unless this step is undertaken, certainly on Gaza, relieving the people of Gaza with massive humanitarian relief supplies, I really think we’re going to see a dog-and-pony show,” being run by the Obama White House, and the sending of Sen. George Mitchell to the region.

So far, what the U.S. has done is, “once again, provid[ed] diplomatic cover for Israel to stall and delay its objectives, and meanwhile, they continue to steal Palestinian lands, destroy their orchards, destroy their



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Gaza, where 1.5 million people are barely surviving in desperate conditions, needs the kind of massive humanitarian assistance that is now flooding into Haiti. Here, a young Palestinian boy sits amidst the rubble of homes that have been bulldozed to make way for the "Separation Wall" between Gaza and Israel.

olive fields, and build more settlements. This has been going on, right from the beginning of the Middle East peace negotiations in 1991, when I was legal advisor to the Palestinians and the Syrians at that time."

But, "miracles can always happen: Look at the darkest days of the apartheid regime in South Africa, and all of that collapsed," said Boyle. "Well, here we have another apartheid regime, Israel. It's apartheid to its core, it always has been. This whole situation could turn around and collapse very quickly—I just don't know. But I'll hang in there, certainly, with the Palestinians."

And recent events in the field of international law lead Boyle to say that, as in the case of Chilean fascist Pinochet, law may catch up with Israeli criminals.

No Immunity Under Nuremberg Codes

Few international figures can speak in as much detail about the decades-long fight against Israeli war crimes, and the political blocks to prosecuting them, than Professor Boyle, who has led successful campaigns at the United Nations to bring war criminals—for example, those who committed crimes against the citizens of Bosnia-Herzegovina in the 1990s Balkan War—before an international tribunal.

Even before "Operation Cast Lead," Boyle had proposed that the UN General Assembly establish an International Criminal Tribunal for Israel (ICTI) as a "sub-

sidary organ" under UN Charter Article 22. Boyle's proposal has been endorsed by Malaysia and Iran, and supported in General Assembly debates by some dozen Arab and Muslim nations.

His work on bringing Israelis to justice for war crimes goes back much further—to the 1982 massacres at the Sabra and Shatila refugee camps in Lebanon, conducted under the watch of top Israeli officials like Gen. Ariel Sharon and Gen. Amos Yaron.

Boyle told *EIR*, "I think that I was probably the first lawyer ever to file a lawsuit against a major Israeli war criminal—that was back in about 1986, when I represented several women who were next of kin of the victims of the massacre of Sabra and Shatila, and I sued General Yaron, whose forces were occupying the Sabra and Shatila camps, and the whole massacre took place under his direction and control."¹

"I sued him . . . about 1986. Eventually I lost the lawsuit, when the Reagan Administration entered the lawsuit through the State Department, and claimed that Yaron, since he was being admitted to the country and accredited as Israel's military attaché to Washington—which we tried to stop, and indeed, we held up for quite some time—had diplomatic privileges and immunities, could not be sued."

"I dealt with that issue, saying that under the Nuremberg principles, there are no privileges and immunities in the commission of war crimes and crimes against humanity." But the court decided that because Yaron got a "formal certification" by the Reagan Administration, "this was a political question and the Court could not do anything to the contrary."

But that was not the end of it. Since then, he has followed "all the lawsuits against Israeli war criminals" internationally, "and they've really taken off, and they will take off" further.

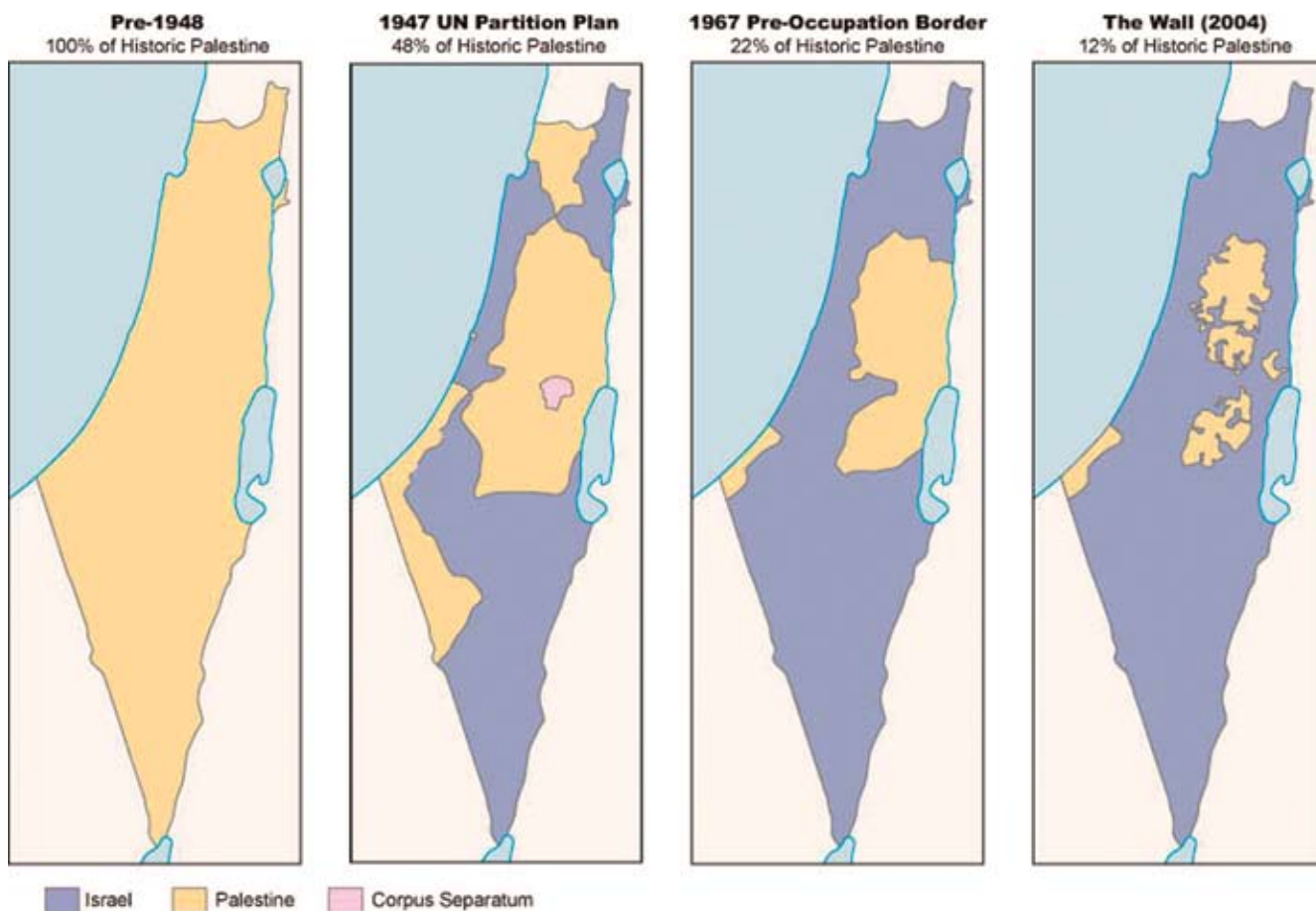
In the U.S. he says, "because of the pretty much Zionist control and domination of the American judiciary, none of these lawsuits have gotten anywhere," he says, but "abroad, they are making progress. . . .

"I advise the Belgian lawyers. They filed another lawsuit, 20 years later [in 2002], against Yaron, Sharon, Elie Hobeika, and [Gen. Rafael] Eitan for the massacre at Sabra and Shatila," which was a criminal case.

Boyle explained that the 2002 case came to an end *only after the Belgian law was changed by the Parliament under pressure*—because someone else had sued

1. <http://www.derechos.org/human-rights/mena/doc/boyle2.html>

Destroying the Two-State Solution



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U.S. Defense Secretary Donald Rumsfeld under the same law. Rumsfeld threatened Belgium and NATO unless that law was rescinded, and Parliament killed it.

“But, at this point, it doesn’t matter: The genie is out of the bottle. Twenty-five years ago, or so, when I filed that lawsuit [over Sabra and Shatila], there weren’t too many lawyers qualified to do that work. Today, with the expansion of the human rights community, you have all sorts of lawyers qualified to do that work, and they’re doing it.”

Asked about recent arrest warrants issued in Britain against Israeli officials, Boyle exclaimed, “That’s starting now! They’re going after them in Britain; they’re going after them in Belgium. . . .”

“So, I think, eventually, we’re going to get one of these people, just like the human rights lawyers in Britain got General Pinochet. Indeed, now we know, that before Israeli government officials travel abroad, they

have to get legal advice as to where they can travel—which is good. Unfortunately, they can still pretty much freely travel here to the United States! And that’s all they really care about.

“But they’re really in a sort of pariah status now, in many other countries, especially in Europe. And that will continue, for sure.”

Open Gaza Now; End Apartheid

Nearly 30 years after Boyle’s first lawsuit, U.S. policy still gives Israel impunity for war crimes, beginning with Gaza.

“In the Obama Administration, they are continuing to aid and abet the genocidal Israeli policies against the 1.5 million Palestinians in Gaza,” Boyle told *EIR*. Just recently, the U.S. “pressured the Egyptians to build a steel wall on the border of Gaza, to cut off Gaza, to stop the tunnels that were bringing food, relief supplies,

medicines, and everything else to the people,” he revealed. And it was done with the assistance of U.S. Army Corps of Engineers.

This “makes a mockery of the claim by the Obama Administration and the alleged efforts by Senator Mitchell, to reconvene the Middle East peace negotiations,” he said. And unless Mitchell and the Obama Administration are prepared to do something—immediately—to stop the war crimes in Gaza, then the mission will be just another “dog-and-pony show.”

“When President Obama and Secretary of State Clinton called for Netanyahu to freeze the settlements, and Mitchell did, too, Netanyahu stood up to them and forced them to back down.

“So—I’m not questioning Senator Mitchell’s good faith and intentions and experience—but if Netanyahu has already successfully stood him down on the settlements, how is he going to get Netanyahu to do anything? Secondly, how is he possibly going to engage in any type of good faith negotiations between Israel and Palestine, brokering them, when he—Senator Mitchell—Obama, and Clinton, are working with the Israelis and the Egyptians, to starve 1.5 million Palestinians? How can this be done?”

According to Boyle, Obama had already decided on the track of “toeing the line” for Israel during the 2008 campaign, when in response to Republican John McCain’s claim that he was “soft” on supporting Israel, Obama promised Jewish voters in Florida that he would appoint Rahm Emanuel as his chief of staff.

“Now, Emanuel is an agent of the AIPAC [American Israel Public Affairs Committee], which, in turn, is an agent of the Israeli government. . . . [David] Axelrod is a Zionist; Dennis Ross is now at the White House, he’s a Zionist. . . . [Most of] the cast of characters there in the White House . . . are Zionists,” Boyle said. “Fortunately, Senator Mitchell, in charge of these negotiations, is not. But I really don’t know how much freedom Senator Mitchell has to do anything under these circumstances.”

The Two-State Solution

There are international actions in the works to use every possible avenue to stop the war crimes against the Palestinians, and Boyle is involved in many of them.



White House/Pete Souza

Candidate Obama promised Jewish voters that he would appoint Rahm Emanuel his chief of staff; this is one of the few promises Obama has kept. Emanuel, points out Boyle, is an agent of AIPAC, which, in turn, is an agent of the Israeli government. Emanuel is shown here with the President, and Israeli Prime Minister Netanyahu (center), in the Oval Office, May 2009.

“Right after Operation Cast Lead ended, I did advise Mahmoud Abbas, the Palestinian President,” says Boyle, “to send in a declaration, under Article 12, paragraph 3, of the Rome Statute for the International [Criminal] Court, accepting the jurisdiction of the Court, and requesting prosecution of the Israelis, high-level Israeli officials, for what they did to the people of Gaza. And President Abbas did do this. . . .

“Just recently the ICC prosecutor, [Luis] Moreno-Ocampo, did make a public statement to the effect that he is investigating this, for two reasons: 1) to determine, do the Palestinians have sufficient government and state capacity to make this declaration; and then, 2) were war crimes and crimes against humanity committed by Israel against the Palestinians part of Operation Cast Lead?

“That statement by Moreno-Ocampo was [issued] before the Goldstone Report came out, and Goldstone determined that, in fact, Israel had committed war crimes and crimes against the Palestinians. . . .

“Right now, as we speak, the Council of Foreign Ministers of the League of Arab States has proposed a resolution to be submitted to the Security Council for Palestine to be admitted as a UN member-state, with the 1967 boundaries.

“Admission to the UN is done by the General Assembly, but it must be upon recommendation by the Security Council. The problem there, is, of course, it could be subject to a veto by the Obama Administration. I don’t know what position they are going to take on this: I would hope they are going to abstain. Certainly, the votes for the admission of Palestine to the United Nations are there.

“Right now, today, the State of Palestine is recognized bilaterally *de jure* by about 126 states. It has all the rights of a UN member-state, except the right to vote; it has state membership in the League of Arab States, the Islamic Council Organization [ICO], and then, also, in the advisory proceedings by the World Court on Israel’s [Separation] Wall, the State of Palestine was invited to participate in a state capacity.

“So, that is another initiative. Now, the problem is, Israel is claiming, fatuously, that somehow, this is going to interfere with the peace process. Well, first, right now, there is no peace process. But, second, this is ridiculous, because if Palestine is admitted to the United Nations with the 1967 boundaries, we will have two states at the UN: We will have Israel and we will have Palestine, and we will have the [UN Resolution] 242 boundaries. Even Netanyahu has recently stated that he is favor of two states, *mirabile dictu!* Obama has stated he’s in favor of two states. Even Bush said he was in favor of two states!

“This would be—as I saw it originally in my advice to President Abbas—a way to produce two states, for two people, living in peace and both bound by the requirements of the United Nations Charter for the peaceful resolution of international disputes, that would overcome the fact that there are no Middle East peace negotiations going on right now. So, those are three initiatives, I want to have taken myself.”



State Dept./Matty Stern

Palestinian President Mahmoud Abbas heeded Professor Boyle’s advice to accept the jurisdiction of the International Criminal Court, and to request prosecution of high-level Israeli officials, for their crimes in Gaza.

Boyle has a fourth initiative, which is gathering international steam—disinvestment.

“Back in 2000, I did call for the establishment of the Israeli disinvestment campaign, and have worked quite hard to push that. That’s a grassroots movement. Certainly in my lifetime, which goes back to civil rights for African-Americans, the only progressive change we have ever seen in this country is by a grassroots movement by the common, ordinary, everyday people of America. And, as of 2000, the Palestinians did not have a grassroots movement in their support, so I decided to set one off, and it’s doing quite well. Indeed, it’s take off worldwide.”

Dershowitz Accused of War Crimes

On one issue—the Jewish settlements in the occupied lands—Israel has *already* been found, by an international court, to be in violation of international law. This has caused a firestorm of reaction from Israel, and its apologists, like Harvard’s Alan Dershowitz.

But, Boyle and a number of other American human rights advocates have taken Dershowitz on, and are ready to do it again.

The settlements are “clearly illegal and criminal,” said Boyle. “All the settlements, as the World Court ruled in the advisory opinion on the [Separation] Wall, all these settlements violate the Fourth Geneva Convention, and a violation of the Fourth Geneva Convention is a war crime. All these so-called settlers are committing war crimes, except the children, who are obviously not old enough to formulate a criminal intent.

“Indeed, Alan Dershowitz began attacking the World Court for this ruling and attacking their credibility, and this, that, and the other.

“Well, Dershowitz is not a trained international lawyer; he’s not a trained human rights lawyer. I debated him once, and he sort of gratuitously conceded that I was the expert on these subjects.

“But in any event, what Dershowitz was not aware

of, was that in the advisory committee proceedings, the American judge, Thomas Buergenthal, *who is a Holocaust survivor, himself*, joined the ruling—he dissented against a lot of other things by the World Court [International Court of Justice]—but Judge Buergenthal ruled that the settlements violate the Fourth Geneva Convention. And to Judge Buergenthal’s credit—I’ve known him for many years; I have a lot of respect and admiration for him—he made this ruling.

“So, in other words, Dershowitz was attacking the integrity of a Holocaust survivor. But of course, that doesn’t surprise me: He attacked [Prof.] Norman Finkelstein’s mother; he also attacked Prof. Israel Shahak, one of the leaders of the peace movement in Israel, himself a Holocaust survivor, unfortunately, no longer with us, but a great man.

“I’ve dealt with [Shahak], I have great respect, and indeed, he was going to have a lecture tour here in the United States, in, I guess, the Fall of 1990, and he was coming to speak in Champaign, [Ill.], and the organizers of his lecture tour asked me if I would put him up in my home as my guest, in order to conserve on expenses, and I agreed. And I was greatly looking forward again to meeting Professor Shahak... But as you know, with the Gulf crisis, Professor Shahak decided to cancel his lecture tour and stay home with his own people, which was certainly understandable.

“Dershowitz couldn’t care less. Whatever kind of outright character assassination he has to apply to anyone, even Holocaust survivors like Judge Buergenthal, Professor Shahak, Norman Finkelstein’s mother, it doesn’t bother Dershowitz. Indeed, my understanding is, he’s trying to run to become President of Israel, to take Peres’s place. Well, fine, it would be great to get him out of Harvard Law School—my dis-alma mater!—and ship him over to Israel with all the other war criminals over there.

“In fact, I say that, because Dershowitz admitted,



Harvard’s Alan Dershowitz, who has admitted to being part of a Mossad committee that authorized the assassination of Palestinians, is an apologist for the Israeli settlements, which the World Court has declared to be in violation of the Fourth Geneva Convention on war crimes.

publicly, that he is part of a Mossad committee that authorized the assassination of Palestinians.

“You can find that article on counterpunch.org, by Prof. [Liquat Ali] Khan. Well, the Palestinians are all protected persons under the Fourth Geneva Convention, and for Dershowitz to authorize their murder is a war crime. So, Dershowitz is a *prima facie* war criminal, who should be prosecuted himself.²

“And there he is, teaching at the Harvard Law School, and advocating torture, crimes against humanity, war crimes against the Palestinians. As you know, he said, ‘Well, we should just be obliterating their villages. You know, if they do this, there’s a terror bombing here, we [should] destroy one of their villages.’

“And, of course, Dershowitz also advocates torture here, in America. The guy’s shameless.

“I remember, [when] I started [at Harvard], Dershowitz started as an assistant professor, and his first big case was defending a pornographic film star in ‘Deep Throat.’ Dershowitz likes to present himself as some great defender of the First Amendment... Well, as Catherine McKinnon has, I think, taught us all, pornography is a form of violence against women: It’s a human rights matter. So, it doesn’t surprise me that Dershowitz started his career defending pornographers and pornography, and was and still is greatly proud of it—and now he moves on to defending war crimes, crimes against humanity, genocide, and in addition, over the years, became a war criminal himself.

“But the sum of it is, he’s still teaching there at Harvard Law School. So, I hope he goes back to Israel and becomes President, sure! Be great to see him go: Bon voyage.”

2. Prof. Liquat Ali Khan, “The Harvard Law Professor Who Sat On An Israeli Assassination Target Review Panel: The Jihad of Alan Dershowitz,” *Counterpunch*, Sept. 30, 2004. <http://www.counterpunch.org/2004/09/30/the-jihad-of-alan-dershowitz/>