

Israel Can't Walk Away From Gaza War Crimes

by Dean Andromidas

The last Israeli troops left the Gaza Strip on Sept. 12, completing Israeli Prime Minister Ariel Sharon's evacuation of all Israeli settlements and troops. Sharon announced his unilateral "disengagement plan" from Gaza almost two years ago, and true to his word, the withdrawal has been totally unilateral.

Not only was there a minimal amount of Israeli coordination with the Palestinian National Authority, but no agreements have been signed on important outstanding questions, such as the opening of the Gaza Airport and seaport, which have been closed for the last five years. Israel still controls the border crossings, the air space, and sea coast.

Palestinian President Abu Mazan charged bluntly, "The Gaza Strip is one large prison, and the army's departure does not change the situation."

The Egyptian border crossing is the most insane of the arrangements imposed by Israel. Israel has unilaterally closed the crossing at Rafah, a divided city, half of which lies in Egypt and the other half in Gaza. Israel has moved the official crossing point to Karem Shalom, which is on Israeli territory, near where Egypt, Israel, and the Gaza Strip come together.

As soon as the Israelis departed, Palestinians crossed freely into Egypt where they were able to be reunited with family members, in many cases for the first time in ten years. They were also able to buy food and commodities which have been in short supply because of the Israeli siege. Sharon's government expressed indignation at the failure of Egyptian border guards to fire upon the Palestinians, as Israeli troops would have done.

Warrants vs. Israeli Generals

Meanwhile, retired Israeli Maj. Gen. Doron Almog temporarily cooled his heels at London's Heathrow Airport on Sept. 11, waiting for an immediate return flight to Israel to avoid an arrest warrant issued by a British court the day before, charging him with war crimes. Almog had been tipped off about the warrant while en route to London earlier that day, and therefore did not officially enter the United Kingdom, in order to avoid being arrested.

Almog, who recently retired from the Israeli Defense Forces, was the former commander of the Southern Command and was therefore responsible for the Gaza Strip. He is accused of war crimes under the Fourth Geneva Convention

of 1949 for ordering the destruction of 59 Palestinian homes in Rafah. He is also under investigation for the killing of Noha Shukri al-Makadma, who was in her ninth month of pregnancy at the time of her death on March 3, 2003, as well as Mohammad Abed al-Rahman al-Madhoun in the northern Gaza Strip on Dec. 30, 2001. Furthermore he is being investigated for mass murder for his involvement in the bombing of the Daraj neighborhood in Gaza on July 22, 2002, which killed Hamas leader Salah Shehadeh and 14 other Palestinians, mostly children.

The British court ordered the arrest at the request of the law firm Hickman and Rose, which represents the Palestinian Center for Human Rights (PCHR) in Gaza, responsible for documenting the cases. The case was brought before a British court because the British judicial system recognizes universal jurisdiction for war crimes and crimes against humanity which, under the Fourth Geneva Convention, are violations of international law recognized by the signatories to that convention. Both the United Kingdom and Israel have signed those conventions.

Sharon may think he can politically profit by a “unilateral” withdrawal from Gaza without giving the Palestinians a viable state, but he cannot unilaterally repudiate the war crimes and the crimes against humanity conducted by Israel during its occupation, an occupation universally recognized as illegal under international law. These war crimes can only be repudiated through a bilateral agreement with a legally constituted Palestinian state. It should be an agreement modeled on the Treaty of Westphalia, which ended the Thirty Years War in Europe in 1648. Under that famous treaty, all belligerents agreed to end the war and repudiate all war crimes in return for an agreement where the former enemies would commit themselves to work for one another’s welfare and happiness. But Sharon is not interested.

This One Got Away; Will Others?

Daniel Machover, senior partner at Hickman and Rose, who has dual British and Israeli citizenship, said that his clients, and the firm, “were deeply sorry that Almog slipped away from the British justice system, but the fact that he feels that he cannot stand up to it, is at least significant in showing that there is no immunity for war criminals in Britain.”

Both Machover, and his Palestinian clients, demanded that a criminal investigation be launched to discover, and then prosecute whoever leaked the order for Almog’s arrest to Israeli Ambassador to London, Zvi Hefetz.

No sooner had Almog escaped arrest from the Anti-Terrorist and War Crimes Unit of Britain’s Metropolitan Police, than it was revealed that Chief of Staff of the Israeli Defense Force, Lt. Gen. Dan Halutz, and his predecessor, Lt. Gen. Moshe Ya’alon, face possible arrest for war crimes pertaining to their alleged involvement in the above-mentioned operation, in which a one-ton bomb was deployed to kill Hamas leader Salah Shehadeh in July 2002.



This complaint was also filed by the Hickman and Rose law firm on behalf of the PCHR. In addition, it now has been announced that the Israeli organization Yesh Gvul joined the complaint, and has offered evidence to support the case. This organization has had a petition before the Israeli Supreme Court calling for the investigation of the Shehadeh bombing, but the court has yet to take action. It is because of this failure that Yesh Gvul has taken the case to Great Britain.

“The High Court of Justice is the law enforcement train’s last station before it leaves the borders of the Country,” attorneys Avigdor Feldman and Michael Sfard wrote in the petition.

Yesh Gvul is an Israeli peace organization which supports Israeli soldiers who refuse to serve in the occupied territories.

The tragedy of Sharon’s unilateralism not that Israeli military officers will have to spend their vacations in Israel. Egypt has built a new railroad line that goes directly up to Rafah, and is only waiting for a peace agreement to extend that line up through Gaza and into Israel, where it could connect up to the Israeli ports and eventually up to Lebanon, Syria, Turkey, and Europe. The old tracks from the Ottoman Empire period still exist through Gaza. But the opportunity to connect Israel with Africa and Europe, to enjoy the tremendous long-term economic and political benefits, is not important to Sharon and his backers.