A young scholar and professor from Israel’s Bar Ilan University came to UB Law School on Nov. 30 to address perhaps the most important facet of international law today: the fight against terrorism.

Professor Abraham “Avi” Bell’s address in O’Brien Hall was titled “The Overlooked Obligation to Fight Terror Under International Law.”

Drawing on his scholarly work in international legal conventions, Bell explored nuances of two United Nations Security Council resolutions meant to fight terrorism, and demonstrated that states’ obligations to act against terrorists and their supporters are more widespread than is often realized.

Bell, a former clerk for a justice of Israel’s Supreme Court, is a visiting professor at Fordham University this year. His legal education was at the University of Chicago and Harvard University. Bell began by noting that, in this time of near-constant talk of terrorism, there is no accepted definition under international law for what constitutes terrorism. He cited, for example, an Amnesty International report from 2002 that acknowledged, “One person’s terrorist is another person’s freedom fighter.”

“That struck me as extremely odd,” he said, “because there are a number of international instruments that specifically bar acts of terror and create legal obligations having to do with acts of terrorism, terrorists and terrorist organizations. Yes, there is some ambiguity in the term. On the other hand, that is true of a lot of legal doctrines.”

Existing international law, Bell said, requires states to combat terrorism in various ways, both directly and indirectly. He discussed at length two specific instances of such law: Security Council Resolution 1371, passed just two weeks after the 2001 terrorist attacks on the United States, and Resolution 1566, passed in October 2004.

The first, Bell said, directed that states must “suppress and prevent financing of terrorist acts, criminalize collecting of funds to carry out terror, deny support to entities or persons involved in terrorist acts, deny safe haven to those who plan or commit terrorist acts, and prevent the movement of terrorist groups.”

In detailing this resolution, Bell cited international conventions against piracy, hijacking and hostage-taking, and the distinction in the law of war against attacking civilian populations. “In acts of war, one must aim one’s attacks at legitimate targets and not at illegitimate targets,” he said. Legitimate targets are “property that contributes to the military effort of the enemy or persons taking part in military effort of the enemy.”

“This does not mean, he said, that civilians are entirely off-limits. The ‘law of proportionality,’” Bell said, “is essentially: ‘In these attacks on legitimate targets, it is OK to impose collateral damage—it is OK to destroy civilian property and kill civilians, so long as damage to civilians is not excessive in relation to the military damage.’”

Resolution 1566, he said, expands the duties of states “beyond simply acting against financing and refraining from providing support. It requires states to cooperate fully in the fight against terrorism, to find terrorists and bring them to justice.”

“Not only must they stop providing support,” Bell said, “they must go out and bring to justice persons who support, facilitate, participate or plan to participate in terrorist acts. The resolution demands that states become parties to the relevant international conventions and protocols, whether or not they are a party to regional conventions on the matter.”

That last provision, he said, is crucial, because it says nations may not justify supporting terrorism based on political, racial, ethnic, philosophical or religious reasons.

The 1998 anti-terrorism convention of the Arab League, he said, prohibited support for acts of terrorism, but made an exception for “cases of struggle for liberation and self-determination.” In effect, Bell said, under the Arab Convention, “acts that would otherwise be considered terrorism would not be considered terrorism if they are carried out against Israel.” But the 2004 UN resolution, he said, disallows such an exception.

Other elements of international law can be construed as applying to the war on terrorism. Bell said. For example, he said, the Convention on Genocide defines genocide broadly enough that it incorporates acts that many would consider acts of terrorism, and mandates punishment for those committing such acts.

The Convention on Genocide, he said, defines genocide as the intent to destroy a national ethnic, racial or religious group, and the act of “killing of any member of the group, injuring a member of the group, or directly acting to bring about its destruction.”

For example, Bell said, “if Hezbollah has the intent to destroy Israeli Jews in whole or in part, then a single killing is an act of genocide. A single act of causing serious bodily or mental harm is an act of genocide. That means that states that are signatories to the Convention on Genocide must prevent and punish this.”

The Convention, he said, also extends to conspiracy, incitement, attempts to commit genocide or complicity in genocide. So, he said, under the incitement provision, “If the multi (an Islamic scholar an interpreter of Sharia law) broadcasts a message telling us that Jews are always the enemy, arguabaly that is incitement to commit genocide, even without any acts of violence.”

Bell’s appearance in Buffalo was sponsored by the Jewish Law Students Association, the American Jewish Committee, Student Events, Sub-Board I, Hillel and Scholars for Peace in the Middle East.
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