



Israel and the End of International Law

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Six months separate us from the onset of a war that exposes the extreme vulnerability of international humanitarian law and international diplomatic relations, as few international conflicts did after the Second World War. Israel's violent and bloodthirsty actions in Gaza have cumulated in an authentic bloodbath that has claimed well over 30,000 civilian victims; more than half of them children. Today, more than 20 Palestinian civilians have been killed for every Israeli who has died since the start of the conflict—including those that fell during the October 7 massacre. In the Ukrainian War, the relationship has been exactly the opposite, there is one civilian death for every 20 military casualties. During the first 100 days of the invasion of Gaza, a massacre similar to that of Bucha (300 dead) has occurred every day.

Several European leaders have expressed criticism towards Israel—including Macron, De Croo, Sánchez, and Borrel. Most have stayed quiet, however. With the unconditional, permissive, and guilty support of the United States, UK, and Germany, Israel was left unimpressed: The heads of state of Spain and Belgium were accused by Netanyahu of being supporters of terrorism. The



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Israeli government even demanded the resignation of the UN Secretary General. One of the most worrying consequences of the conflict is the way in which Israel has been rewriting international law through its actions. While alleging the use of self-defence, it seems as if Israel has thrown all other pillars of international law into the dustbin. And we are not just talking about the architecture of collective security and human rights that emerged in the post-war period and the trauma of Nazi Germany and the Holocaust.

Israel has undertaken every possible effort to undermine the United Nations: It has recurrently demanded its secretary-general, Guterres, to stand down. It has tried to undermine the United Nations Relief and Works Agency (UNWRA), accusing seven of its 12,000 employees of having been involved in the assault of Hamas, causing the freeze of a majority of the funding for the UN agency. It has accused the UNWRA of being part of the problem because it keeps the Palestinian people “existing.” It has accused the UN of permitting the existence of Hamas tunnels below its headquarters. It has [banned](#) the UN Special Rapporteur about human rights from entering the Palestinian territories.

The institutional architecture of the UN proved to be inefficient, ineffective, and useless in resolving the conflict. It did not even manage to “moderate” Netanyahu and his far-right government. The resolutions demanding a cease-fire and the respect for civilians—approved almost unanimously at the UN general assembly—have been completely ignored. The U.S. veto power made any collective and effective action by the Security Council impossible. Even the attempt by the UN secretary general who tried to use his extraordinary powers to convene and influence the Security Council, proved to be useless. The UN and its secretary general were degraded to a mere spectator, while more than 100 UN officials were killed by Israel, evidence that the principles of international law have lost even their symbolic value.

Israel has a long history of ignoring human rights and international law when it concerns Palestine and its Arab neighbors. What makes the very serious violation of human rights by the “democratic State” of Israel in recent months so different is the open, public, and obscene character of the violence. Despite the massive attempts for censoring information critical to Israel—through bullying, black-outs, blackmailing, lobbying, accusations of antisemitism, the sponsoring of pro-Zionist messages on social media, and most recently the legal ban on the Aljazeera media network—regular media outlets, social media, NGO’s, researchers, and international institutions have provided the world with a continuous flow of information and lively images of pain, death, blood, and rubble. In contrast to other deadly conflicts—like in Darfur, East-Congo, Yemen, that despite their death toll are “forgotten”—there is absolutely no one on earth that after these months could have said: “We didn’t know” about the forced displacement of populations, collective punishment, the closing off from food, water and aid, the murder of journalists, to countless stories of execution and torture. The incident in which Israeli soldiers killed three naked Israeli hostages who were carrying a white flag and shouting for help in Hebrew is now collective memory. It is terrifying to imagine what has happened during these months to thousands of Palestinian civilians, journalists, doctors, or volunteers who had the misfortune of crossing paths with IDF forces in Gaza.

Israel is also setting serious precedents regarding much older aspects of international law; laws established in the nineteenth century or earlier, such as the recognition of national sovereignty within internationally recognized borders, the first Geneva Convention, and the way military forces must respect the Red Cross/Crescent and medical services. The bombing of foreign countries, and therefore the unilateral disrespect of the sovereignty of the territory of states, like Former Yugoslavia, had already been normalized by the United States through a doctrine of “responsibility to protect” since the nineties. A new level was reached with the bombing of Syria and Libia, and the invasion of Afghanistan and Iraq during the “war on terrorism.” Russia has also shown itself to be “creative” in its own policy of reinterpreting the “responsibility to protect” doctrine when it invaded Ukraine to “protect” the citizens of Donbass. But Israel made no effort to claim these dubious forms of exception. Israel in recent months has not only massacred Gaza, but also bombed Syria and Lebanon; destroying, among others, the Iranian consulate in Damascus, assassinating various high-ranking Iranian generals and diplomats, killing dozens of soldiers and civilians, and twice destroying the civilian airport in Damascus.

The most serious precedent of all, however, is the way Israel has treated medical services and the Red Cross/Crescent. The Israeli army has systematically attacked hospitals, health facilities, and ambulances under the pretext that they constituted bases, storage, and transports of terrorists. Even if these allegations were true, international law would not permit these attacks. But after months of war and almost all of Gaza’s health infrastructure destroyed, the Israeli army has still been unable to demonstrate any minimally credible and legitimate proof of its claims. Doctors from the NGO Doctors Without Borders have been killed in hospitals while carrying out their job of saving lives, Red Cross/Crescent employees were fatally hit by air strikes while providing care in ambulances. For the president of the international committee of the Red Cross, Mirjana Spoljaric, we face “a catastrophic moral failure: one that the world must not tolerate” (Spoljaric 2023). Marc Biot, a Belgian doctor who has worked for 34 years for Doctors Without Borders in war conflicts around the world, recently stated that the destruction that is happening to medical facilities and the blockage of humanitarian aid is unprecedented in history.

A straightforward explanation of this collapse of international law can be found in the dynamics of hegemonic transition the capitalist world-system is currently going through. One could say that the so-far existing rules and institutions of international law accompany the development of the history of the capitalist world system: The principles of sovereignty of the Treaty of Westphalia accompany the creation of sovereign nation states. The division between the universal law of the metropole—based on a common European *res-publica Christiania*—and the attribution of the natural law of violence “beyond the line” in the colonies described in Schmitt’s (2003) *Nomos of the Earth*, follows the European colonial expansion. The first forms of collective security emerge between the then dominant political and economic powers Austria, Prussia, Russia, and the United Kingdom in the concert of Europe, following the defeat of the “excesses” of French revolutionary republicanism and Napoleon. The League of Nations and the International Labor Organization was an answer promoted by the United States, France, and the UK following the imperialist conflicts that led to the disaster of the First World War, the growing power and co-

optation of the European working class, and the Russian Revolution. The post-war Geneva Convention and the UN was a consequence of the trauma of fascism and the Holocaust, combined with the reality of needed cohabitation with the Soviet Union. The tension between the West and the Soviet-led world created space for decolonization in the former European colonies, particularly in the aftermath of the Bandung Conference. The result was a partial democratization of the UN general assembly and a transition towards a form of neo-colonial capitalism.

After the—somewhat unexpected—political and economic collapse of the Soviet Union, a unipolar international system emerged; dominated by the “Free World” of the United States and its (neo-)European allies. In the past decades, the relative obstacle that the principle of national sovereignty posed to the international accumulation of capital in the post-colonial system was solved by a new doctrine of international law that came to be based upon universal—albeit Eurocentric and hypocrite—neoliberal principles.

These principles included the international protection of property, free trade of commodities, and financial capital through international institutions such as the International Monetary Fund (IMF) and the World Trade Organization (WTO). Relations between countries had to be based upon international law, commerce and peace—the so-called Pax Americana. The rules included the supposed protection of freedom and human rights—particularly to be mobilized against potential political and economic competitors and adversaries. They even included a justice system that allowed for the prosecution of crimes against humanity through the International Court of Justice; a jurisprudence that however did not apply to the countries that didn’t recognize the court—in particular the United States themselves. Within this kind of rule of law system, the United States claimed the role of global police officer—effectively imposing its state monopoly of violence on a global scale.

Within this system, Israel played to role of the representant of the “Free West” in the Middle East, a critical region in the world system. It is not only the world’s foremost provider of capitalism’s most essential commodity: hydro-carbonates/oil. Oil remains not only crucial as the main source for energy and transport—despite attempts for a green transition—but serves also as the basic component for chemistry, pharmacy, and plastics. The geographic position of the Middle East is also central for world trade; 25 to 30 percent of all global container trade passes through the Gulf of Aden and the Suez Canal. As the only white colonial settler-state in the region, of which most of its citizens relatively recently emigrated from the United States and Europe, Israel seems the natural ally for the United States in the region. Israel claims to be a democracy—supposedly the only liberal democracy in the region—despite that it never recognized citizen and voting rights to 40 percent of the people that lived in the territory under its control.

Due to the economic growth and growing geopolitical influence of China; global capitalism has already for some time been changing towards a bipolar or even multipolar system. American and European dominance is declining, also in the Middle-East. Numerous signs of this hegemonic transition exist. There is the conclusion of the new Silk Road initiative which brings a considerable part of the region in the Chinese economic sphere of influence. There is the increasing shift of oil-exports towards China, while those to Europe and America are declining in the context of Green

transition. On the diplomatic level, China has leveraged its influence in the negotiations between Iran and Saudi Arabia. It was close to concluding an agreement between Israel and Saudi-Arabia—a deal which was only jeopardized by the Hamas attack of October 7. There were even signs that Israel and Turkey, the other NATO ally of the United States, were starting to hold more independent positions. It suffices to look towards the positions of both countries in the conflict between Russia and Ukraine. Both took a position that kept Moskow on speaking terms, and they were functioning as peace-negotiators in prisoner exchange agreements and in the grain export deals. While challenging the American dominance, the existing international law and governing principles have not been obstacles for China's growth. Its rise to power has been peaceful so far.

Besides China, other new, sub-imperialist powers are also testing the global state of affairs and international law. Among them are the other BRICS and regional powers such as Iran and Turkey. South Africa took the seemingly bold initiative to open a case at the International Court of Justice (ICJ) in The Hague; a step, easily understandable considering its own history with colonization, apartheid, and racism, as well as the historically close relation between Nelson Madela and Yasser Arafat. The South African government had already been “provoking” the Western hegemony by refusing to side with Ukraine in its conflict with Russia and announcing it wouldn't abide the international mandate from the IJC against Putin. Brazil, whose president Lula Da Silva has been on a collision course with Netanyahu, supported the case. There is no BRICS consensus though; India—guided by Modi's Islamophobia and racism, declared itself a firm ally of Netanyahu.

Crises become visible when internal contradictions of a system become apparent; when the coexistence of the different governance principles becomes untenable; when a range of different narratives or “contradicting legitimacy claims” (Habermas 1975: 48–49, Van Vossolle 2021: 67–68) emerge. They are moments of recoupling of the economic system to the political. The crisis in international law has been mostly expressed on the side of the hegemonic power which is losing preponderance: The United States and its Western allies. The structures of international law, which once reflected the interests of a hegemonic power, don't fit the interests of a super-power in decline anymore. Its claims for self-defense go beyond any reasonable measure. The protection of its economic and military dominance in the region and the world collides directly with the previously established norm of respect for international law and human rights. It is in these situations that hypocrisy is publicly revealed, and the dominant narrative loses legitimacy.

Antonio Gramsci (1992: 33) famously claimed that the crisis consists “precisely in the fact that the old world is dying and the new cannot yet be born; in the interregnum a great variety of morbid symptoms appear.” When the trivialization of violence and barbarity becomes natural, especially towards children and defenseless people, we realize that the catastrophe that ended the year 2023 as one of the most violent years since the second world war, could mean the opening of the gate to dark times in which genocide has become acceptable, and the apparent possibility of humanitarian politics under capitalism has disappeared.

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