

SESSION 9

HUMAN INTERNATIONAL LAW

**US-Israeli Hypocrisy on Human Rights. Total Disregard
for International Law**

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Total Disregard for International Law



By the end of the 19th Century, it was recognized by those concerned with human rights that the nation-state was a destructive anachronism. It was an entity that seemed addicted to periodic spasms of mass violence, particularly in the form of war carried out with little or no regard for non-combatants or other restraining factors.

As a consequence, efforts began aimed at creating instruments of international law – treaties, conventions and other agreements – to modify state behavior in such areas as the treatment of prisoners and the victimization of civilian populations.

Progress was spotty until the very end of World War II, when various human rights charters came into existence as a part of the United Nations. Through that institution, provision was made — albeit in very narrowly defined circumstances — for the fielding of UN military forces (the famous Blue Helmets) to try to enforce peace and protect civilian populations. Other institutions, such as

the International Criminal Court (ICC), were also eventually brought into existence.

The post-war move to expand international law to cover human rights and provide enforcement measures was all for the good, and in the future it will hopefully prove a powerful precedent that can be built upon. But this period of progress did not last long. It soon gave way to a hypocritical selective application of humanitarian law.

The truth is that today only those nations which are relatively weak and have no great power patronage are in any danger of being called to task for gross violations of human rights. If you are the leader of some small African or Balkan state and you go on some ethnically or religiously inspired rampage, you run a real risk of being charged with crimes against humanity and hauled before the ICC, while the UN Security Council votes to send military forces into your country.



Image: Israeli Prime Minister Benjamin Netanyahu speaking to the United Nations General Assembly on Oct. 1, 2013. (UN Photo by Evan Schneider)

On the other hand, if you are a great power or the close ally of one, you can pretty much do what you want, where you want. Great powers hold the concept of their own sovereignty sacrosanct and the us-versus-them mindset that goes along with hubristic nationalism remains unchallenged. That goes for their allies as well who, under the protection of their patron, often commit with impunity the same crimes that land smaller, unprotected powers in deep trouble.

Israel and the U.S. Undermine the Law

The most blatant contemporary example of this disregard for international law as it pertains to human rights can be seen in the actions of Israel. The Zionist state's present blitzkrieg in Gaza may be the worst of that nation's ongoing series of violations of International humanitarian law. I would refer the reader to the Center for Constitutional Rights fact sheet outlining Israel's violation of humanitarian-law statutes.

It is not an exaggeration to say that Israel's acclaimed "Defense Forces" have become expert in violating human rights: murder and ethnic cleansing, illegal confiscation of occupied land, destruction of civilian housing, destruction of civilian infrastructure (water, electricity, sanitation, etc.), attacking of medical facilities, torture both of adults and children, the use of banned weaponry, the mistreatment of prisoners and more. And they have done it all quite openly.

Official complaints about Israeli behavior come before the UN several times a year but to no avail. Each time Israel is called to task in the UN Security Council for violating international law, the U.S. vetoes the resolution and therefore Israel suffers no consequences. Obviously this only emboldens Israeli leaders to continue acting in a criminal manner.

But the impact goes beyond Israel and its victims, because each time the U.S. casts its veto, international law designed to protect human rights suffers degradation.

The reason for this U.S. behavior has to do with the inflated role of special interests, or lobbies (in this case the infamous Zionist lobby) in the governing structure of democratic societies. For a more detailed discussion of this phenomenon the reader can go to my essay on lobbies (*Lobby, Lobbification, Lobbified*, April 16, 2011) and how they operate in Washington.

Under the present circumstances in most democratic states, if a special interest has sufficient resources and organization it can, quite legally, manipulate policy so that the very definition of national interest is warped into an expression of the interest of the lobby. This is what the Zionist lobby in Washington has done in the case of U.S. foreign policy in the Middle East.

This regrettable state of affairs has effectively brought to a halt any progress to expand enforcement of international human rights laws. Indeed, international law in general has fallen so far out of favor that, in the case of the United States, many citizens think that this form of law as well as organizations such as the UN are elements of shadowy conspiracies attempting to take over their nation.

Resurgent Tribalism

What does this tell us about ourselves and our politics? It suggests that at some deep level we are still tribal. The concept of us-versus-them appears deeply ingrained in our psyches and thus influences our actions. If the “us” could get bigger and bigger to the point where it encompasses all of humanity, that would be real progress. But short of an alien invasion that seems unlikely.

In fact, the theory of natural localism — the notion that we all live our lives in localized spatial and temporal environments — suggests that tribalism in its various forms is the social organization most compatible with human nature. Those interested in the notion of natural localism should see the first part of my book *Foreign Policy Inc.*

The promotion of international humanitarian law, which undermines tribalism by universalizing the application of law, may be felt as a threat by those whose self-concept is tied to the nation-state (or worse, an ethnically or religiously exclusive state) and therefore wrapped up with an us-versus-them worldview. This is certainly the case when it comes to the Israelis and their Zionist supporters.

So, Israeli behavior and U.S. protection of that behavior is a somber message that we have a way to go to overcome our propensity for murder and mayhem.

We have managed to establish standards of humanitarian behavior and even embody them in international humanitarian law. We have managed to create an albeit imperfect prototype for enforcement through the UN. But we have yet to overcome the problem of selective application of that law. This may be a fatal roadblock. If anyone can figure out how to overcome it, he or she will be a *truly deserving* candidate for the Nobel Peace Prize.

What are human rights?

Human rights are the basic rights and freedoms to which everyone is entitled on the basis of their common humanity. They include civil and political rights, as well as economic, social, and cultural rights.

Human rights are drawn from various cultures, religions and philosophies from around the world over many centuries. They are in force at all times and in all places. Human rights protect everyone equally without discrimination according to race, sex, religion, political opinion or other status.

How are human rights defined?

After the Second World War, the founding countries of the United Nations adopted the *Universal Declaration of Human Rights* in 1948, which set out the fundamental rights of all people and declared them a common standard of achievement for all nations. Since then more than two dozen global treaties, as well as many regional agreements, have provided a legal foundation for human rights ideals. When a government ratifies one of these treaties, it takes on legal obligations to uphold human rights.

The core human rights treaties include:

- The *International Covenant on Civil and Political Rights*: Civil and political rights primarily protect individuals from state power. They include rights to life and liberty, fair trials and protection from torture, and the freedoms of expression, religion, association and peaceful assembly.
- The *International Covenant on Economic, Social and Cultural Rights*: Economic, social and cultural rights, such as the rights to housing, education and health, require governments to use all available resources to gradually achieve them.

Other treaties focus on ending specific abuses, such as torture, enforced disappearances and forced labor. Some treaties protect the rights of marginalized groups, including racial minorities, women, refugees, children, people with disabilities, and domestic workers.

In addition to treaties, the United Nations has adopted various declarations, principles and guidelines to refine the meaning of particular rights. Various international institutions are responsible for interpreting human rights treaties and monitoring compliance, such as the UN Human Rights Committee and UN special rapporteurs who work on specific issues and countries. Corporations and international financial institutions, such as the World Bank and the International Monetary Fund, have a duty to avoid complicity in human rights abuses.

How are human rights enforced?

The duty to enforce international human rights law rests primarily with governments themselves. Governments are obligated to protect and promote human rights by prohibiting violations by officials and agents of the state, prosecuting offenders, and creating ways that individuals can seek help for rights violations, such as having competent, independent and impartial courts. A country's failure to act against abuses by private individuals, such as domestic violence, can itself be a human rights violation.

However, when governments are responsible for human rights violations, these protections are often inadequate. In these cases international institutions, like the UN Human Rights Council or the Committee against Torture, have only limited ability to enforce human rights protections.

More frequently, governments that commit human rights violations are held publicly accountable for their actions by nongovernmental organizations. Some organizations provide direct services such as legal counsel and human rights education. Other organizations try to protect human rights by bringing lawsuits on behalf of individuals or groups. And organizations such as Human Rights Watch use fact-finding and advocacy to generate pressure on governments to change their policies.

What about human rights in armed conflict?

International humanitarian law, or the laws of war, is a separate but related body of international law. Unlike human rights law, which applies at all times, the laws of war only apply during armed conflicts. The laws of war do not prohibit war, but set out rules on the conduct of hostilities by both national armed forces and non-state armed groups in order to protect civilians, provide for the humane treatment of all prisoners, and reduce wartime suffering. While customs of war have existed for thousands of years, international treaties restricting warfare date back about 150 years. Most commonly recognized today are the *Geneva Conventions* as well as treaties banning certain weapons, such as the *Land Mines Treaty*.

What about prosecutions of rights violators?

Individuals who commit serious violations of international human rights or humanitarian law, including crimes against humanity and war crimes, may be prosecuted by their own country or by other countries exercising what is known as “universal jurisdiction.” They may also be tried by international courts, such as the International Criminal Court, which was set up in 2002 to try individuals responsible

for very serious crimes such as genocide, crimes against humanity, and war crimes

Timeline

1815 The Congress of Vienna expresses international concern for human rights. Freedom of religion is proclaimed, civil and political rights discussed, and slavery condemned.

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1864 The First Geneva Convention protects the wounded in battle and gives immunity to hospital staff and the Red Cross during war.

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1919 The League of Nations is established with the aim of guaranteeing and protecting the basic rights of members of minority groups.

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1945 The United Nations is formed to build peace, protect human rights, oversee international law and to promote social progress and better standards of life.

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1948 The Universal Declaration of Human Rights (UDHR) outlines protection of rights for all people.

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1949 The Fourth Geneva Convention provides for the humane treatment and medical care of prisoners of war.

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1965 The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) resolves to abolish racial discrimination and promote understanding between races.

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1966 The International Covenant on Civil and Political Rights (ICCPR) protects the individual from any misuse of government power and affirms the individual's right to participate in the political processes of their nation.

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1966 The International Covenant on Economic, Social and Cultural Rights (ICESCR) guarantees access to the resources needed for an adequate livelihood, such as food, health care, clothing, shelter, education and personal safety, and ensures participation by all in the life of society, religion and culture.

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1979 The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) defines discrimination against women and sets up an agenda to end it.

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1984 The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) defines tortures and similar activities in order to prevent their use.

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1989 The Convention of the Rights of the Child (CRC) sets out the civil, political, economic, social and cultural rights of children, defined as those under 18 year of age.

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1993 The Vienne Declaration from the Second World Conference on Human Rights reaffirms the Universal Declaration on Human Rights, emphasising that human rights are universal and indivisible and rejecting arguments that some should be optional or subordinated to cultural practices and traditions.

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1995 The Beijing Declaration of The Fourth World Conference on Women declares "Women's rights are human rights".

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1999 The Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour is adopted by the International Labour Organisation (ILO)

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2002 The International Criminal Court (ICC) is established. It is an independent, permanent court that tries persons accused of the most serious crimes of international concern, namely genocide, crimes against humanity and war crimes.

civilian any person who is not a combatant

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civilian object any object that is not a military objective

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combatant member of armed forces, member of an armed group under the orders of a party to the conflict

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military objective object which by its nature, location, purpose or use makes an effective contribution to military action and whose destruction offers a definite military advantage

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hors de combat means "out of the fight" describes combatants who have been captured, wounded, sick, shipwrecked, and no longer in a position to fight

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principle of proportionality the expected number of deaths or injuries to civilians or damage to civilian objects must not be excessive compared to the anticipated military advantage

What is public international law? Rules that govern relationships involving states and international organizations. Covers a huge field involving war, human rights, refugee law, international trade, the law of the sea, environmental issues, global communications, outer space

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What is private international law? Concerned with the class between laws from different jurisdictions and is sometimes referred to the conflict of laws.

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What is the International Court of Justice and what does it do? Part of the UN and based Hague, Netherlands

Only hear cases relating to conflicts between states

Also gives legal advice to UN bodies

Doesn't follow a precedent system

NZ is one of the 60 nations that has accepted the IJC's compulsory jurisdiction

All UN members must comply with IJC decisions that apply to them

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What is the International Criminal Court and what does it do? It was established in July 2002

Jurisdiction of the ICC includes genocide, crimes against humanity and war crimes

Put individuals on trial not their states

ICC can only act when nations won't or are unwilling to

Can only hear cases from participating nations or the SC can call upon others

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What is the United Nations? Formed in 1945 after WWII

Charge with the task preventing a WWII

Encourages cooperation and compromise among different nations

Constitutional document establishing the UN is called the Charter of the UN

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What is the Security Council? It is an executive body made up of the 5 most powerful members of the allied forces that defeated Nazi Germany and imperial Japan

Us, Russia, China UK and France permanently sit on the SC and each has the power to veto any SC decision

These are joined by 10 other nations each of which get a 2 year temporary membership

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What does Article 24 of the charter state? The SC has primary responsibility of the maintenance of international peace and security and acts on behalf of UN members nations

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What does article 42 of the charter state? The council can order military action to maintain or restore international peace and security

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What does article 43 of the charter state? It instructs member nations to make military service available for UN use if necessary.