

THE INTERNATIONAL COURT OF JUSTICE or THE INTERNATIONAL COMMUNITY FOR JUSTICE?

On Friday the UN based Court issued its pathetic remedies against Israel. Now mark, the Court accepted that South Africa, in this case the prosecutor, had established beyond doubt that Israel had acted in a criminal manner towards the Palestinians in Gaza. Implicit in the Judge President's collating of the facts presented by the prosecuting country, as well as her citing the conclusions from senior U.N. officials, was the admission that Israel had acted in a genocidal manner as determined by the various international acts prescribing such behaviour and intent.

Now given that the court had found Israel guilty and given the fact that the Court recognised the risks facing the Palestinians, what remedies did it provide? All it did was to instruct Israel to improve its behaviour and for it to return back to the court in 30 days, or when measured by the current death rate in Gaza, to return back to the court after it has killed a further 4000 Gazans, to show the court that it had improved its behaviour.

To remove any emotion let us reach for an analogy. Imagine if you will that the court was dealing with an abusive wife beater, a man who had publicly declared his intention of killing his wife (Amalek), has publicly beaten his wife in front of the world and ransacked her home. What would a court do under those circumstances when the case of abuse had been proven. It would seek to punish the wife-beater (sanctioning Israel), or at the minimum order the man to immediately desist and be barred from the marital home (ceasefire), but what it would not do is put the man on probation given his history of continuing and escalating violence. But this is what the court did by calling on the man (Israel) to improve his behaviour and report back in thirty days. In doing so the Court raised the rights of the man (the right to self-defense) above the protection of the wife. In doing so these legal clowns in their ornate court room wearing weird garments did not even meet the threshold of natural justice.

In case anyone was under the illusion that the court favoured the Palestinians in its remedies read what the US State Department had to say about the ruling. *["The US said the ICJ ruling was consistent with Washington's view that Israel has the right to take action, in accordance with international law, to ensure the October 7 attack cannot be repeated."](#)* In other words the Court upheld Israel's right to self-defense or more correctly their right to offend.

[The Court](#) further considers that Israel must take immediate and effective measures to enable the provision of urgently needed basic services and humanitarian assistance to address the adverse conditions of life faced by Palestinians in the Gaza Strip. And no sooner had the court ordered Israel to lift all prohibitions on humanitarian aid, then the Zionists worked their way around this by conveniently claiming that the aid agencies themselves were complicit in supporting the incursion on the 7th of October. Despite the flimsiest of evidence, mainly provided by Israeli soldiers rummaging around in Gaza, their Western supporters immediately started to defund humanitarian support for Gaza.

What was equally galling was the lauding of the Court by the political lightweights in the West such as Owen Jones who saw the courts ruling as a [massive defeat for Israel](#). Contrast this to the observations by Palestinians on the West Bank who concluded: [This court is a failure](#). They recognised that anything short of the Court demanding an immediate ceasefire amounted to a betrayal of the Palestinian people, which it was. And they added it was no surprise as international institutions always failed to take exemplary action against Israel. It will also be no surprise that over the next few weeks all those plaudits of the Court

expressed by the likes of Owen Jones will be walked back quietly as Israel continues its onslaught on Palestine.

And this onslaught will continue unabated because of an undisclosed imperative. As the [Electronic Intifada](#) reported on YouTube, the Israeli Army is losing the war in Gaza. "By losing the war", it does not mean that Hamas will emerge victorious. A guerilla war is different. Victory is defined as the failure by the attacking force to break the resistance of the defenders. This weekend, the IDF has estimated that 80% of the tunnel network under Gaza, now nicknamed the Metro, was still undiscovered and functional.

To substantiate their view of the difficulties facing the IDF, the Electronic Intifada cited a report in the *New York Times* where unnamed Israeli generals were appealing for US support for a ceasefire. (The link is above.) They needed US support to break through the intransigence of the Israeli government dead set against such a move. However, this appeal did not resonate in the White House, because despite Biden despising Netanyahu, Biden has his back.

This step expresses [the desperation](#) found in the senior ranks of the Israeli army. More evidence of the growing frustration with this war is surfacing in a number of ways. For example the Israeli Minister of Defense attending the funeral of a slain soldier was verbally and physically attacked by his brother demanding an end to the war. Demonstrations have been growing and so have invasions of the Knesset.

Returning to the point about the killings in Gaza, we must note there is a hidden imperative. Whenever the Israeli army is bloodied in Gaza, they take it out on the Palestinian people. In retaliation, indiscriminate bombings increase. This point is well made by the *Electronic Intifada*. This is why the ICJ's remedies are not worth the paper they are written on and sealed. The Zionists cannot stop the onslaught on the Gazan population because this is the only lever which they have to force the Resistance to bend the knee.

A history of deception.

Towards the end of World War 2 the US and British Imperialists, emerging victorious, adopted a two pronged approach to reshaping the world order born from the fear of a revolutionary wave erupting once more in the defeated imperialisms, as had happened after the end of World War 1. To this end they sought to crush the German and Japanese working classes by carpet bombing their cities thereby reducing them to homeless and desperate beggars. And secondly the US recognised it could not rule the world in the old way, the British way, especially in the face of a more confident and robust USSR.

They therefore set up a host of international economic and political institutions to create their 'rules based' new order. We will deal only with these political institutions. First and foremost was the United Nations, an alleged world government. This global institution was made possible due to US, UK, and Russian collaboration during the war. A collaboration which Stalin cemented in 1943 by disbanding the [Communist International](#). *"What he (Stalin) realized was that the gesture of eliminating the Communist International would buy him not only good will with the Western Allies but much needed American matériel. US diplomat Joseph Davies, former ambassador to the USSR and author of the controversial Mission to Moscow (turned into a movie in 1943), arrived in the Soviet capital just three days before the Stalin regime proclaimed the Comintern's end."* Having abolished the Communist International it was but a flea hop for Stalin to embrace the idea of a United Nations. To cement support from the USSR at Yalta, it was agreed that any permanent member of the dominant Security Council, of which there would be five, would have the power to veto resolutions other than procedural ones passed by the UN General Assembly. Stalin insisted on this knowing

he would be in a minority of one on the Security Council, a fact borne out by the USSR being responsible for 75% of all the subsequent vetoes in the Security Council

Despite this, the USSR like Britain, were the junior partners. Strictly speaking the UN should have been renamed the UNA, or the United Nations of America to show who the real power was. It was no mistake that the UN would be headquartered in the United States with the US its largest financial backer. Despite numerous vetoes it was clear the US held sway in the General Assembly with many countries beholden to it. This became clear a few years later with the setting up of the United Nations Command to militarily assist the US in its war on the Korean Peninsula.

The International Court of Justice (ICJ) was set up by the same San Francisco Conference in 1945 alongside the U.N., and all members of the UN are parties to the statute of the ICJ. The remit of the ICJ is limited to passing judgements on disputes between member states and its findings can only be enforced indirectly via the General Assembly and the Security Council whose permanent members can over-rule such enforcement.

Finally, various Human Rights Acts were promulgated, the most notable one being the European Convention of Human Rights. Set up in the aftermath of the war against fascism, its main purpose in Churchill's eyes was to embarrass Stalin by enhancing the rule of law as distinct from capricious bureaucratic behaviors found on the other side of the *iron curtain*. Unlike the ICJ the Human Rights Act when adopted by national parliaments, acts within a country rather than between countries by protecting the rights of the citizenry against measures passed in national parliaments. There is a lesser known equivalent in the USA called the Bureau of Democracy, Human Rights, and Labor. The reason it is less well known is that it is toothless, nor has it ever campaigned to repeal the notorious Taft-Hartley Act of 1947 which attacks the rights of Labor.

Together all these institutions seek to promote the international rule of law, which the Oxford Bibliography recognizes to be an *elusive* concept. It is loosely based on the set of international agreements arising from international conventions and treaties agreed over time. The shorthand way of describing all of this is that this is a *rules based system*. If I had a Dollar for every time the US has proclaimed it stands for the rules based system, I could have ended world hunger.

Fundamental to the *rules-based* system is the rule of private property and particularly the rule of imperialist private property. The UN is a fundamentally undemocratic institution where a country on the Security Council with a population in the tens of millions can overrule votes in the General Assembly carried by countries with populations in the billions. Nor is the ICJ representative. All five security members are guaranteed a judge, amounting to a third of all the judges. And the ICJ cannot enforce any judgements. Even the Human Rights Act is deeply flawed in so far as it enshrines both the sanctity of private property and the fruits that derive from this property. Churchill was no fool.

The structures of these international institutions, however, are not the key. It is what goes on in the background which is decisive. It was the wheeling and dealing, the bribing and the bullying of smaller nations and judges behind the scenes on the part of the imperialists intent on getting their way. For example why did it take the ICJ weeks to arrive at its judgement when the case was cut and dry while lives were at stake. No doubt they were not discussing the finer points of law.

And for all these reasons a crisis is now beginning to emerge. As long as the US dominated the world, was the hegemon, forcing them to be obedient, these institutions were able to function with their veneer of legality intact. But the world is now beginning to change from a uni-polar to a multi-polar world in a way not seen since the Second World War, the USSR notwithstanding. When the *BRICS* were enlarged to the *BRICS plus* last year, incorporating a significant population and economic heft, speculation abounded over whether alternative international institutions would be set up to bypass the current one originally set up in the image of the USA. The meeting last year in Durban however pledged fidelity to the current batch of flawed institutions. But the commitment to reorder them was clear to see.

Undoubtedly, there will now be a struggle for control within the UN and its institutions. As the sun sets on the American Empire the US will find it more and more difficult to use these institutions to its advantage. A rebellion is forming as the US is seen to be vulnerable by those chafing under its grip. The defeat of NATO in the Ukraine, the Palestinian resistance and the Houthi's defiance has hastened this process.

Even the ICJ's ruling must be seen in this context. Though flawed this is the first ruling of substance against Israel in its seventy five year history, and it will further isolate Israel and its backers. Clearly this ruling has been a reputational blow not only to Israel but its main banker and arms dealer, the USA.

Not only will there be a tussle within these institutions but increasingly they are being bypassed. In the end, might is right, and he who rules the waves sets the rules. The US is increasingly being forced to use its economic and financial muscle directly. It has sanctioned 7 countries, partially sanctioned another 16 countries together with 12,000 individuals around the world whom it deems are either sponsoring international terrorism or acting against the interests of the USA. In addition it has imposed economic embargoes on Chinese firms especially Huawei, restricted the ability of China to import High Tech and unilaterally raised tariffs against Chinese imports into the USA.

In the end war sweeps aside global law, treaties, and agreements. Now that it is becoming undeniable that the Ukraine is being defeated, seven European Prime Ministers have declared that war with Russia is inevitable this decade. They recognise the need to wage war directly against Russia because of the failure of their proxy war. And just as they claimed that Russia provoked the war in Ukraine, so they now claim that all of this preparation is needed because, you see, they know without a shadow of doubt, that Russia will invade Europe next. It appears a division of labour is taking place; Europe will take on Russia while the USA and Japan will take on China.

I always warned the leadership of the U.K. *Stop the War* organisation that their failure to completely break with Imperialism by declaring that Russia did not provoke the war in Ukraine, but that its 'invasion' was a defensive move in the face of inescapable and escalating provocations by NATO and Zelensky, would come back to haunt them. And it has. Using the cover that Russia provoked the war in the Ukraine, and having won the argument, it is now much easier for the imperialists to argue that the *Russians are coming*. The leadership of Stop the War really need to ask themselves if they are politically able and capable of leading an anti-war movement.

Conclusion.

We have seen that bourgeois law is always flawed. Does this mean we turn our back on these legal institutions. Definitely not. In setting up these institutions the imperialists knew it came with a price, a certain inhibition on their freedom to oppress. When this fetter becomes intolerable, they will abolish

these institutions and rule under a state of emergency, freeing them of all restraints. Therefore as a tactic we have to defend these institutions without the illusion that they represent in any way a form of workers' democracy. The capitalists may call us communists, the enemy of democracy, but in the end, by their actions, by their subversion of their own institutions, the truth will be known.

In the meantime we need to build our own ICJ, the International Community for Justice. Our ICJ will not be found in a grand court room but on the streets of cities on every continent, we will not be dressed in archaic robes but be resplendent with our banners and slogans, we will not be appointed but inspired by the universal quest for justice, and finally, we will not be paid large salaries and expenses, but be motivated by our heartfelt solidarity. The war drums are beating louder. To its beat we need to organise and build the resistance inspired by the Palestinians, because in the end we are all joined by the same war, the class war to end the economic system which forces nations to fight each other - capitalism.

Brian Green, 28th January 2024.