

International Law, Dead and Reborn in Gaza?

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Israel's war on Gaza has laid bare the limitations of international law when the powers supposed to uphold it turn a blind eye or actively support its violations. Yet the efforts of journalists on the ground, NGOs, and other international organisations to document the crimes being committed all share a common language and keep alive the possibility of justice. An interview with Jérôme Heurtaux, author of *Le droit international est-il mort à Gaza?* ("Did international law die in Gaza?").

Benjamin Joyeux: Why write this book now, when your expertise is in Eastern Europe, not the Middle East?

Jérôme Heurtaux: First and foremost, I want to stress the importance of talking about Gaza. In the current context of the war in Iran, the focus on Palestine in general, and Gaza specifically, is clearly smaller than it should be. Generally speaking, the focus on Palestine has been sporadic, intermittent, and very often biased. The proliferation of obstacles to the enforcement of international law in the region as a whole cannot overshadow the specific arenas in which violations occur.

Gaza is important for a number of reasons. First of all, because the crime committed by the Israeli army in response to the 7 October attack is a capital "C" Crime: the extraordinary military brutality, the scale and systematic nature of attacks and abuses against civilians, the unprecedented death toll among children, the use of starvation as a military weapon, the demolition of schools, hospitals, universities and places of worship, as well as all the forms of dehumanisation deployed against the Palestinian people, have led a number of political actors, but most of all civil society actors – international legal experts especially – to invoke and mobilise the categories of international criminal law. These include war crimes, crimes against humanity, and, for the first time in many years, genocide.

The Sabra and Shatila massacre in 1982 was already designated as genocide by the United Nations General Assembly. But never before Israel's war in Gaza has such a large and ever-increasing number of actors – repeatedly and concurrently – declared that a crime of genocide has occurred. Indeed, this crime is of such a scale that it has reduced life expectancy in Gaza by approximately 35 years in the space of just two years. By way of comparison, between 1913 and 1918, life expectancy in France fell by 17 years. And this severe drop in life expectancy is due to excess mortality among the youngest segment of the Gazan population, which is one of the world's younger societies. Globally, it also has the highest number of child amputees per capita.

Is it primarily the scale of crimes committed in Gaza that demands your attention as an academic?

It's not just the scale of the crimes, but also the fact that when we speak of crimes, we have to speak of justice too. "Crime" implies "criminal." Just because there are now fewer crimes being committed in Gaza – since there is less systematic bombardment – it doesn't mean that they have vanished. The perpetrators are still out there, and they must be brought to justice and held accountable for their actions.

In a certain sense, the more we talk about Gaza, the more we open the horizon for justice in the future – criminal justice, national or international, capable of prosecuting all those who have perpetrated war crimes, crimes against humanity, and crimes of genocide.

And then there's another reason, just as important. These mass atrocities were perpetrated before our eyes: the eyes of our leaders (especially in the West), of the public, and of our political and media class. [Anthropologist and sociologist] Didier Fassin has rightly argued that "consent to the destruction of Gaza has left a gaping wound in the moral order of the world." So this is a huge test for international law, but also a moral test for society as a whole. And I think we are ethically required to not avert our gaze, to look directly at what is happening in Gaza. In a certain sense, Gaza holds a mirror up to us, individually and collectively.

What I have seen in this mirror is the distress of a French citizen, a teacher and researcher, at once powerless in the face of such crimes, enraged by the justifications provided for them, and revolted by the implicit and often explicit consent of our leaders to crimes committed in our name.

The last reason is that even though the destruction of Gaza may appear to have slowed down since last autumn's ceasefire, it continues in forms that are less visible because the media has turned its attention away. Yet there are still airstrikes, albeit less intensive, which have killed at least 600 people and wounded more than 1600 since the ceasefire was declared [in October 2025].

Living conditions in Gaza continue to worsen due to the blockade, the destruction of economic, health, and education infrastructure – which will have long-term consequences – and the fact that Israel continues to block humanitarian aid by constraining or criminalising NGOs. Seeing this, our governments content themselves with issuing verbal condemnations, but never take action. According to Jean-François Corty, president of Médecins du Monde, there are more than 1.5 million people in Gaza experiencing food insecurity and more than 20,000 wounded people who are slowly dying due to the lack of treatment facilities.

The official figures, based on government records obtained by Hamas, put the number of direct fatalities at around 75,000. These figures are likely underestimated. When no body is found, no direct fatality is recorded, and there is a massive number of bodies under the rubble. Then there are the indirect fatalities, which are harder to measure. The lowest estimates put this figure at at least 100,000, which is almost 5 per cent of the total population.

How do you explain that the majority of our governments in Europe have condoned such massacres, and more or less continue to do so?

Our governments' support for the Israeli army and the destruction of Gaza rests on three arguments that are based on a total inversion of values.

First, they claimed to support the war in the name of peace. When you want to justify a military campaign, you always say that you are making war to make peace. This is exactly what our governments have said to justify their unconditional (or almost unconditional) support for Netanyahu. Now, how do you justify a war in the name of peace when that war is so punitive in form? And how do you justify such a reign of terror descending upon the Palestinian people? We have to always remind ourselves that this conflict is asymmetrical.

The second argument for this war is anti-terrorism. Remember that Emmanuel Macron proposed fighting Hamas with the international anti-terrorism coalition that was created to defeat the Islamic State (IS). We

know that this argument has a certain legitimacy in French society, given the horrific terrorist attacks that took place in its recent history. But how can you use that fight against terrorism to justify massive violations of international law, causing the devastation of the Gazan population, which the Israeli army considers to be composed entirely of terrorists?

The third argument relies on an even more problematic principle whereby the world is divided between “democracies” – including Israel – on one side, and authoritarian regimes on the other, with the latter considered “barbaric” and functioning only through the ideology of violence. This sweeping division has been very widely circulated by our leaders to justify support for Israel in the name of solidarity between “democracies”.

But what kind of democracy would support the ever more violent, arbitrary, and sweeping acts of colonial racism in the West Bank? What kind of democracy would subject a segment of its population to the logic of apartheid, a term used by a large number of NGOs to describe the situation in Israel? And above all, what kind of democracy would engage in a massive military campaign against an entire civilian population?

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How do you interpret the fact that right now, in France, there is still support for a military campaign and an Israeli government that have no respect for human rights? And what are the concrete effects of what is happening in Gaza on French society?

Instead of provoking moral outrage and public awareness in France, the crime committed by the Israeli army has met with justifications, while critique has been dismissed or even criminalised. The Israel-Palestine conflict, contrary to what is claimed by a section of the media, has not been imported to France by the far left or the cynical manipulation of Jean-Luc Mélenchon. Since its origins, this conflict has been embedded in French society as a barometer of the tensions at work within our country. The effects of this war continue to produce a number of different waves within French society.

First, we are witnessing a trivialisation of international law, which is increasingly treated as a mere adjustment variable, one political tool among others in international balances of power, in a country that has long prided itself on being a great defender of international law. The idea behind my book emerged the day that France declared its justice system would not enforce the arrest warrants issued by the International Criminal Court against Israeli leaders, including Benjamin Netanyahu.

Then there's the growing criticism of the so-called bias of national and international NGOs, which are supposedly at the service of some kind of ideological activism. There are even politicians arguing that government funds should not be used for advocacy that only benefits foreigners.

Lastly, the UN institutions and their representatives have to deal with increasingly harsh criticism. Francesca Albanese, the UN Special Rapporteur for the Occupied Palestinian Territories, has been singled out in attacks – reiterated by the Minister for Foreign Affairs Jean-Noël Barrot – dismissing her work as nothing but pro-Palestine activism. In France, they refer to it as “Palestineism”, a neologism designed to instantly disqualify all promotion of international law in general, and support for Palestinians

specifically, as a militant ideology.

We have also witnessed a hardening of legislation that aims to penalise all criticism of Israel in the name of combatting antisemitism. A new bill is currently under discussion, known as the Yadan Bill, that is supposedly designed to combat all forms of racism, xenophobia and antisemitism, but is in fact designed to prevent all criticism of Israel. This is a text that infringes both freedom of expression and academic freedom.

In particular, we need to fight against what some are calling “new forms of antisemitism”, namely the antisemitism of the Left, since that of the Right has supposedly disappeared. Yet we know that this is simply not true. What this reveals is an intensification of a “definitional campaign” that aims to redefine antisemitism, anti-Zionism, terrorism and glorification of terrorism. So now a number of activists, trade unionists and researchers are being prosecuted for “glorification of terrorism”, when all they did was denounce the ongoing crimes.

This negation of international law, this weaponisation of the fight against antisemitism, using the justice system for political ends, are extremely dangerous for our democracy and rule of law.

What does your book attempt to add to the ongoing debate on Gaza, especially at the level of international law?

The idea was to understand what international law can or cannot do in Gaza, and in turn, what Gaza means for international law. Gaza is a real-world test case for international law, highlighting both its strengths and, more importantly, its limitations. The limitations are clear, but there are also strengths that the general public has not fully grasped: all the indirect, symbolic, and political effects that are unexpected consequences of the law. We expect the law to stop crimes or punish them, but in reality, it can also do more.

The first part of my book is devoted to mobilising all the reports published during the war in Gaza: by national and international NGOs, by UN special rapporteurs and independent expert commissions, but also articles produced by the media – not only international television networks, but also a large number of local journalists, many of whom work virtually pro bono and have paid a heavy price (at least 293 journalists have been killed in Gaza since October 2023). These reports have provided real-time insight into the conflict. We’ve been aware of what was happening since day one: we know how many hospitals have been targeted, how many children still have to be vaccinated, the rate of malnutrition, etc. And then there are the legal cases, such as that filed by South Africa in the International Court of Justice against Israel for the violation of the 1948 Genocide Convention, accompanied by a memorandum of more than 100 pages supporting the case and detailing specific incidents.

In fact, since October 2023, sufficient information has been available to confirm that war crimes have been committed in Gaza. And the deeper we go, the more we can refine the legal classification of these crimes.

In the spring of 2024, with the first report by Francesca Albanese since 7 October 2023, the word “genocide” began to be used for the first time to describe the situation in Gaza. And since then, despite the confusion perpetuated by certain media and politicians who accuse the Italian lawyer of being “a political activist who spreads hate speech”, in the words of Jean-Noël Barrot, most of those seeking to legally define what is happening in Gaza converge on the same analysis and diagnosis, which are nothing more than the logical result of the application of international law.

Populations are now able to seize upon international law as a tool of protest and mobilisation, but also memory.

Isn't it all a bit futile, since no matter how often international law is invoked, it doesn't prevent crimes from being committed?

No, because the law offers a common language to all those who are mobilising for Gaza to translate the situation into legal and criminal terms. This is a universal language that enables us to establish and recognise that a crime has taken place. It doesn't merely describe a certain reality. International law doesn't stop at saying "there was an airstrike", for example. It says, "This airstrike is a war crime for this specific reason." And so the whole world can understand what is happening, provided they're willing to listen.

The title of the 1948 Convention contains the word "prevention". What this means is that once a signatory state has enough information concerning a conflict to say that there's a risk of genocide, all states that are part of the convention must do everything in their power to prevent those crimes from being committed. This is a complex law and authorises the use of the word "genocide" even when it has not yet occurred. This is what makes it so powerful.

International law is an instrument for raising awareness, condemning, and mobilising. It's a tool that allows us to open up the possibilities and potentialities of justice. There are legal proceedings underway involving both national and international courts: the International Criminal Court, the International Court of Justice, and a certain number of courts in France, Germany, England, the Netherlands, Belgium, and other countries. Cases are being brought against Israeli and dual-citizen soldiers. There are also proceedings underway against political leaders and arms manufacturers. All of this comes down to the goodwill and popular mobilisation of organised civil society.

This is a historic moment for international law, which Gaza is accelerating in a certain sense, though we saw the first signs of it in Syria and even more so in Ukraine. We are seeing peripheral – and often post-colonial – states taking ownership of international law. Nicaragua, for example, has initiated a case against Germany in the International Court of Justice for complicity in the crime of genocide in Gaza. As a symbol, this is not meaningless. Populations are now able to seize upon international law as a tool of protest and mobilisation, but also memory.

The more we speak of the genocide in Gaza in terms of international law, the more chance we have that all these crimes will not vanish forever from our collective memory. Despite the horror of the situation, there's a whole host of reasons to believe and hope in the possibility of a renaissance of international law by way of the war conducted against Gaza.

Translated from French by Ciaran Lawless | [Voxeurop](#)



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