The Non-Existence of Human Rights and International Justice

Victims of the most serious crimes recognized by mankind have no legal remedy to seek justice and compensation. International treaties, international law, supra-national tribunals and courts like the ICJ and the ICC are without consequence for the victims of crimes against peace, war crimes and crimes against humanity. The European Court of Human Rights can issue advisory opinions. Legal remedy for the victims is today, despite charters, treaties, statutes and courts as elusive, as it was under the tyranny of feudal regimes.

The Charter of the United Nations enshrines principles of international law and justice which, in part, are based on the post-WWII Nuremberg Tribunals. The victors of the war decided that nobody, not even a head of state or those who followed illegal orders were above the law and exempt from accountability, prosecution and punishment. The Charter should regulate the peaceful coexistence of sovereign nations. It should criminalize the planning of and crimes against peace, war crimes and crimes against humanity. The Universal Declaration of Human Rights should guarantee that people can exercise certain rights and freedoms, free from oppression and persecution.

The International Court of Justice (ICJ) was established to settle legal disputes among nations. Quasi-legal tribunals such as the International Tribunal for Yugoslavia became the precursors of the Rome Statute and the International Criminal Court (ICC). Along with them came the controversial principles of humanitarian interventions and the responsibility to protect. Ironically, neither the United States, nor China or Russia signed the Rome Statute. The ICC is, in other words, a UN court system that has no jurisdiction over citizens of the three most powerful, permanent members of the UN Security Council. Russia and China never referred any alleged perpetrators of the most serious crimes to a special tribunal or the ICC. The United States and its NATO allies for their part, have used the special tribunals and the ICC in politically charged trials against heads of state who were ousted in western-backed coup d'État. Experts in international law and governance who are aware of the injustice discuss whether one should reject the ICC all together, or whether one should lodge complaints against alleged war criminals from NATO member states or their proxies to demonstrate that the ICC is highly selective with regard to whom it prosecutes.

The role of the victims of torture, rape, the destruction of their property, the death or maiming of their spouse or children is limited to testifying in what often amounts to political show trials which may result in the conviction of alleged war criminals. The ICC is screening victims who testify to exclude those who may not be able to testify without suffering additional trauma, or so it claims. The fact is, any victim whose testimony is used in politicized trials without offering actual legal remedy and compensation to the victim itself, unavoidably, suffers additional trauma. The message which the ICC conveys to these victims translates into:

"We need your testimony to serve our political purpose. When we are through with you, you can return to your devastated life and don't expect justice; not from us, or from anyone else."

The value of human rights and international justice for those who use and abuse them for political purposes is considerable. For the victims themselves, they are worthless words on paper at best. This is the state of affairs with regards to human rights and international justice, in all of its grotesque clarity. To mention but a few examples.
The war against the former Republic of Yugoslavia was, according to the retired French Brigadier General Pierre Marie Gallois planned by NATO member states since the mid-1970s. Gallois admits that he was involved in the planning of the crime against peace and implicates others, including the late German Defense Minister Franz Josef Strauss as well as British and French officials. None of them have ever been charged with crimes against peace and the war crimes which were committed during the war. The former President of Yugoslavia, Slobodan Milosevic, was arrested and charged with war crimes at the ICTY. Milosevic died in prison while he was in the custody of the ICTY. Alexander Mezyaev and Christopher Black raise serious questions about the Milosevic trial and his death in their article “Death of President Slobodan Milosevic in NATO Prison Remains a Central Question in International Justice”.

In 2010 the Ivorian President Laurent Gbagbo was ousted in a coup d'État. One of the first official acts of Gbagbo was to order that the tunnel between the French Embassy and the Presidential Palace would be closed with a concrete wall. Gbagbo discussed the creation of a gold-backed, Pan-African currency with the Libyan head of State Muammar Qaddafi. The initiative would have ended the virtually absolute French control over the national economies of its fifteen former African colonies. Qaddafi was murdered in 2011. Gbagbo was transferred to the ICC awaiting trial.

The European Union established the European Court of Human Rights (ECHR). Lodging a complaint about human rights abuses has become increasingly complicated. The ECHR severely complicated the rules about the admissibility of complaints, claiming a large number of plaintiffs abused the court’s possibility to sue for example one’s government. That said, the ECHR does not provide actual legal remedy for citizens either. The court's authority is limited to issuing advisory opinions. It is necessary to exemplify the bearing of the court’s right to issue advisory opinions. Imagine the court issued an advisory opinion about a regime that is notorious for torture, including the systematic rape of female political prisoners. Then imagine the victim of such abuse “win a case” as the ECHR and return back home, armed with the protection of an advisory opinion.

The lack of a credible international justice system has led to initiatives such as the Kuala Lumpur War Crimes Tribunal. The tribunal found members of the U.S. Administration of George W. Bush guilty of war crimes. The tribunal issued a verdict against Israel on charges of genocide. The initiative does help raise awareness about certain crimes but it is, arguably, as selective in its prosecution as the ICC. Moreover, the Kuala Lumpur Tribunals have no other than moral authority. It is hardly sufficient to deter a multi-trillion per year military-industrial lobby, members of think tanks and members of governments who plan wars to co-opt resources or gain geopolitical advantages from planning the next crime against peace. Moreover, non of their victims receives any form of compensation.

The sobering matter of fact is that human rights and international justice are the play-thing of those who have a sufficient degree of political, economic and military power to abuse them. Considering the fact that non of the three most powerful permanent members of the UN Security Council signed the Rome Statutes, it is highly improbable that the ICC is reformable. The question is whether it would be possible to establish an alternative to the ICC that avoids selective prosecution and provides legal remedy, directly to those who have been affected by the most serious crimes.

One proposed solution would be the establishment of an association of sovereign States who adopt international jurisdiction for the most serious crimes, and who establish a permanent institution or bureau, that investigates these alleged crimes. In cases where allegations can be substantiated, the bureau would forward suggestions for the indictment of alleged criminals to the prosecutor-generals of member States. International, diplomatic initiatives for the establishment of bilateral and multilateral assurances of solidarity in cases where the prosecution leads to political, economic, or in the worst case military reprisals would be required. Diplomatic initiatives aimed at the development of bilateral and multilateral treaties which regulate legal processes in such a manner that no State, no prosecutor, judge or court could be considered a direct or indirect party to the legal dispute would have to be taken. Treaties should include provisions to guarantee the safety of those who lodge cases as well as witnesses, if necessary by granting political asylum.

It would be paramount that measures would be adopted to guarantee that alleged perpetrators are tried in fair, independent and transparent trials and sentenced if found guilty beyond a reasonable doubt. Assets of those convicted of the most serious crimes recognized by mankind could be frozen or confiscated to compensate the victims for documented losses. Persons who don’t appear in court and are sentenced in absentia will be informed that they risk being arrested if they enter the territory of States who have adopted international legislation. The information would be made publicly available to signal that the international community does not tolerate impunity.
with regards to the most serious crimes, regardless of who committed them. Finally, such an initiative would not be complete without including a permanent working group that confronts those who are planning crimes against peace with available evidence, and a group that is tasked with “preemptive” conflict resolution.

The initiation of the so-called global war on terror in 2001 has led to the exponentially accelerating erosion of international law. About 40 percent of the Syrian population has been displaced by mercenary brigades which are overtly and covertly sub-contracted, financed, and armed by state actors and rogue networks which are embedded in governments and international organizations. Statements, like that of the former French Foreign Minister Roland Dumas, who said that top-British officials approached him in 2009, admitting that they planned to invade Syria with the help of “rebels”, and the ICC's abject failure to investigate, show with all possible clarity that international law and human rights are non-existent or empty words for the victims of the crimes.

Arguably, the question whether a sufficiently strong group of sovereign nations decides to work towards the establishment of a new, international justice system or not determines whether the world continues to decline towards tyranny, impunity and a new dark age or not. Alternatives exist, the question is, whether the political will exists among those who don't abuse the ICC and reject it, without offering an alternative that provides legal remedy to the victims of the most serious crimes.

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