The half-baked Farce of International Law

This article argues that international law is a half-baked farce, that media help baking it, and that there is a need to discuss a more functional understanding of international law and its implementation without confusing participatory principles with a lynch mob and many of the other risks which are associated with international law.

Since governments, lawyers, journalists and editors, unquestionably, will have major roles to play with regard to reforming international law, let's lay a foundation by describing the ethics and morals of lawyers and journalists with two quotes.

In 1726 King Friederich Wilhelm of Prussia issued a Cabinet order that would implement a uniform dress code for judges, prosecutors and lawyers. Considering that human beings construct their reality this Cabinet order is, arguably, one of the most inspiring and revealing laws about our esteemed colleagues at the Courts that has ever been adopted. The order reads (translated from German):

“We hereby order and command, in earnest, that the advocacy will have to wear woolen black robes which, according to our order, shall be more than knee-long, so that one can recognize these rouge jacks from a distance and can guard oneself against them.”

Now lets lay the foundation with regards to journalism and international law. Allow me to quote myself this time, and not without irony:

“Most journalists have chosen their profession because they were inspired by a certain measure of idealism and because they love to dig up dirt. The problem for the vast majority of them is that they neither have sufficient backbone or courage and integrity. Consequently they become Character Pigs or “Karakterschweine” as Germans would call them. Being an intelligent and easily trainable species the character pig quickly figures out what good old farmer editor likes and rewards and when it is that he uses his electric rod because some dirt is “taboo”. Having been electrocuted once is usually enough to train the character pig so it applies self-censorship and attempts to please farmer editor or who ever it is his or her monthly pay-check depends on”.

“Character pigs. You find them everywhere, in every country. Wherever you see journalists gather, you can rest assured that the have the absolute majority among their peers”.

The social constructionist battle that is being waged by Heads of State, top-diplomats, columnists, analysts and media about Ukraine, Crimea, Yemen, among many others, continues raging and results in the at times most awkward self-contradictions.
With regards to heads of State and top-diplomats please read Plato's "The State" and compare his work with the philosophy of utilitarianism that usually is the primary guiding philosophy in politics as well as in international law. See, we are having fun already.

**A look at Ukraine, Crimea and Scotland.**

Not even U.S. Secretary of State John Kerry would describe the ousted government of Ukrainian President Victor Yanukovich as illegal, just as “illegitimate” which is a construct that has no place in law. The U.S. administration would, however, describe the accession of Crimea into the Russian Federation as illegal. The argument used by Washington and the new powers that be in Kiev cited the invulnerability of a nation’s territory and borders. One might wonder what many Germans have in mind when they hears statements of that nature but let that rest – for a while.

The Russian government, Russian diplomats and media as well as experts such as Professor Alexander Mezyaev would stress the principle of self-determination that also is enshrined in the UN Charter. Mezyaev and many others would argue that the people in Crimea used that right to self-determination, held a referendum and then applied for accession into the Russian Federation. A similar situation arose in the United Kingdom when the people of Scotland held a referendum about independence from the UK. Cameron et al- would tout Crimea's accession into the Russian Federation as aggression and sell the Scottish referendum as a wake-up call that shows that London better be more representative with regard to Scottish interests.

The problem here is, apparently, that there are two equally valid principles. Both are enshrined in the UN Charter and in international law.

**A look at Yemen.**

Now let's have a look at Yemen. Many of the same columnists who touted the 2014 Maidan takeover as coup d'état are now touting the Saudi Arabia led military intervention in Yemen as “imperialist aggression”. Many of the countries who participate in operation “Resolute Storm” have their own security imperatives. For Egypt, for example, it is that it is vital for Egypt's economic survival that nobody who may be hostile to Egypt controls the Bab Al-Mandeb Strait. The strait is of equal, if not of even greater global, geopolitical and strategic importance as the Persian / Arab Gulf. Again we see that utility can explain even the strangest bedfellows. One might call it "Realpolitik".

So what does international law say about Yemen? Some would argue that the people of Yemen have the right to self-determination. Even at gunpoint. Others tout the Houthi uprising as Iranian-backed while some argue that the USA is interested in keeping both Yemen, Somalia and other countries who could potentially be used as springboard for closing down the Suez Canal unstable, weak and volatile.

Others would argue that the legal, not to be confused with “legitimate” government of Yemen has called on Saudi Arabia and other Arab league member states to help “return legality, security and the rule of law” to Yemen. What we witness is, in other words, again the conflict between two equally valid principles in international law.

**Might makes Right?**

Ultimately, issues like the conflict in Yemen should be discussed by the UN Security Council but there are several “issues” about the Council and the UN System per se. The UN Security Council is dominated by the victors of World War II or “The Great Patriotic War” as Russians would call it. Since its establishment the world has witnessed more abuse of the Security Council than it has witnessed conflict resolution. Recent examples? NATO, overstepping the provisions of UNSC Resolution 1973 (2011) to bomb the way for Al-Qaeda and Muslim Brotherhood linked mercenary brigades. The result is that the most developed African country was “quite literally” bombed back to the stone age”.

In 2013 the UN Security Council would adopt sanctions against the Democratic People's Republic of Korea. Although the sanctions were sponsored by the United States, both Russia and China went along and each for their particular reasons. In his 2013 New Years' speech DPRK head of State Kim Jong-Un announced economic reforms, plans to transform the DPRK into a regional economic powerhouse, knowing that bringing the DPRK's economy up on par with that of the Republic of Korea a.k.a. South Korea would be one of the preconditions for a successful and peaceful reunification.

Kim Jong-Un also declared that China should no longer expect the DPRK to merely be a provider of cheap rare earth
and other raw materials. The statement didn't exactly make Beijing happy. Another issue that didn't make Beijing happy was that Kim Jong-Un flirted with the Vietnamese model rather than with the Chinese model of market reform. Not good Kim; China went along with the U.S. sponsored sanctions and had the wisdom to know that it always could blame them on the United States.

The government in Pyongyang had cooperated with German and Swiss consultants about reforming the DPRK's economy for years. Pyongyang offered lucrative business contracts and joint ventures to the German industry. This included areas in which Russia and Germany already had established joint ventures and cooperation. It also included sectors in which Moscow would prefer a Russian – North Korean rather than a German – North Korean cooperation. Moscow went along with the U.S. sponsored sanctions knowing that it could always blame them on Washington. The UN Security Council is, in so many words, rotten to the core.

Democracy is a Lynch Mob.

Individual nations are struggling for a place at the Council, at least a non-permanent one. Germany is persistently lobbying for a permanent seat. One of the reasons? Germany, Japan and Italy are still designated as enemy states to the UN. Giving Germany a permanent place at the council would force the hands of China, France, Russia, the UK and the USA to finally abolish the enemy state clause that “legalizes” a preemptive military aggression against Germany, Italy and Japan by any UN member state.

The Non-Aligned Movement is leading the call for comprehensive reforms of the UN System including the Security Council. The main argument is that might does not make right and the the permanent Security Council Members should not dominate the world in their own interests.

So far, the greatest flaw with these calls for reforms has been the call for making the UN System more democratic. If one wants a good example for what democracy looks like look at a lynch mob. 100 people gather around a beaten up guy and someone asks, is anyone here against hanging him? That's democracy. Pure, unadulterated democracy.

So what's the Solution?

I don't know. What I do know is that there is an urgent need for an open and honest debate about reforming the UN system or about abolishing it altogether to build something new. I believe that it was Einstein who said that one couldn't continue repeating the same thing over and over again and expect another result.

So let's roll and let's stop using an oxymoron like military intelligence when we speak about world peace without a one world order American style. Let's think about balancing the right to sovereignty and self-determination against the sovereignty of nations. We could start with repealing nonsensical concepts like “humanitarian intervention” and the “responsibility to protect”. We could discuss how to enshrine human rights and nations rights in such a manner that there is a legal remedy for the individuals as well as for the nations whose rights are being violated, in such a way that there is an actionable legal remedy for them without turning so-called democracy into a lynch mob.

We also have to discuss the discourse in a language that is understandable by “the sovereign”. That is by the people, most of whom have no idea what international law implies. We need to inspire and encourage discussions rather than denigrating people's creativity and motivations by slamming them over their heads with paragraphs, invented by “rogue jacks in more than knee-long, black woolen robes”.

Dr. Christof Lehmann an independent political consultant on conflict and conflict resolution and the founder and editor in chief of nsnbc, exclusively for the online magazine “New Eastern Outlook”.