Is International Law Dead?

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“Do you think that the time of international law has passed?” Ukrainian President Volodymyr Zelensky asked that of the United Nations Security Council last month. It’s a serious question.

Consider that both Russia, ruled by Vladimir Putin, and China, ruled by Xi Jinping, are permanent, veto-wielding members of the UNSC. The former is waging an unprovoked war against Ukraine. The latter, according to the United States, the United Kingdom and other countries, is committing genocide in Xinjiang.

These are, self-evidently, egregious violations of international law. But despots with nukes know they can commit crimes with virtual impunity.

Iran’s rulers comprehend this, which is why they are working so hard to acquire nuclear weapons capability. President Biden’s diplomats have been attempting to strike a deal—a shorter and weaker version of former President Barack Obama’s Joint Comprehensive Plan of Action—that they claim will keep Tehran out of the nuclear weapons club. If you believe that, there’s a bridge over the Persian Gulf I can sell you at a discount.

The International Atomic Energy Agency found traces of uranium at three of Tehran’s undeclared nuclear sites. The IAEA asked for an explanation. It found the one Tehran provided utterly incredible.

That led to an American-sponsored resolution expressing “concerns” and calling on Tehran “to act on an urgent basis to fulfill its legal obligations.” The resolution was passed by a majority of the IAEA’s 35-member board of governors.

Were Iran’s rulers shamed? No, they were angered. To retaliate, they have shut down IAEA cameras at their nuclear facilities.

Concerns about the capabilities of Iran’s rulers are especially intense here in Israel. That’s because Israelis know how extreme those intentions are—more so than even those of Putin and Xi.

The former is using military force to compel his neighbors to think of themselves as Russians rather than Ukrainians. The latter is using “reeducation camps” to compel Uyghurs to think of themselves as Chinese Communists rather than Turkic Muslims.

But Iranian Supreme Leader Ali Khamenei doesn’t want Israelis to think of themselves as anything—he wants them dead.

You think I exaggerate? Israel is a “cancerous tumor that should be cut and will be cut,” Khamenei has said. And: “It is a ‘jurisprudential justification’ to kill all the Jews and annihilate Israel, and in that, the Islamic government of Iran must take the helm.”

In April, an article on the front page of Kayhan, a newspaper that reflects Khamenei’s thinking, opined that Hitler was “smarter and more courageous” than current European leaders because he “expelled” the Jews from Germany.

And last week, Khamenei tweeted: “Zionism is an obvious plague for the world of Islam.”

I could go on, but you get the idea.

What are the United Nations and its international lawyers doing in response to these genocidal threats? Encouraging them, of course!

Most recently, the UN Human Rights Council established what it calls a Commission of Inquiry. It’s empowered to investigate alleged Israeli “law of armed conflict” violations. The COI’s chair, Navi Pillay, has a long record of anti-Israel bias. She will act as prosecutor, judge and jury.

Israelis expect this “inquiry” to be reminiscent of the Spanish Inquisition, only updated to target the world’s largest (surviving) Jewish community rather than individual Jews (or those suspected of secretly being Jews).

The COI presented its first report to the UNHRC on Monday. To no one’s surprise, it accused/found Israel guilty of “fueling an endless cycle of violence.”

To be fair, the report did urge “all parties” to respect international law, and it noted the “indiscriminate” firing of rockets at Israeli population centers. But it neglected to mention that the rockets are fired by Hamas, the Tehran-backed and US-designated terrorist organization that rules Gaza. Hamas has stated repeatedly that its goal is Israel’s extermination, and that peacefully coexisting with the Jewish state is out of the question.

According to the United Nations, Gaza remains “occupied territory” even though every Israeli soldier, farmer, synagogue and cemetery was withdrawn in 2005.

Hamas’s subsequent takeover of Gaza in 2007 following a civil war against the Palestinian Authority, and the multiple wars that it’s launched since, have led most Israelis to conclude that relinquishing more land without a peace agreement in place may not be a great idea.

Future COI reports will attempt to build the false and libelous case that Israel is an “apartheid state” committing “crimes against humanity” and that the “root cause” of the Palestinian-Israeli conflict is—can you guess?—Israel’s very existence.

It will follow that taking steps to terminate Israel’s existence is justifiable. That message will resonate—not least in Tehran.

Could that lead to a repeat of what happened in Europe in the 1940s (genocide) or in the Middle East over the years that followed (expulsion of Jews from Iraq, Egypt and other Muslim lands)? Were that to happen, would the COI shed salty tears? Or would it say the Israelis had it coming? Would it matter?

Here in Jerusalem, I had a long conversation about these issues with a prominent international lawyer.

“What we’re seeing in regard to Israel,” she told me, “is not really the application of international law. It’s ‘lawfare’”—the use of tendentious and politicized interpretations of international law as weapons of war.

Combined with the inability or unwillingness of the “international community” to hold the world’s most brutal tyrants accountable for their ongoing crimes, we may have the answer to Zelensky’s question.

If we are returning to a world order in which, to paraphrase the Athenians to the Melians, despots do what they will and small nations suffer what they must, the consequences are enormous. Western leaders—if they are leaders—will give this possibility serious consideration.