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OPINION

After more than four months of conflict, Israel's campaign of retaliation against Hamas has been characterized by a pattern of war crimes and violations of international law. Israel's stated justification for its war in Gaza is the elimination of Hamas, which is responsible for the following acts committed during its October 7 attack on Israel: 1,139 people, mostly Israeli civilians, killed; thousands more wounded; and 240 people taken captive, many of whom are still held by Hamas.

In response, Israel forcibly displaced Palestinians, imposing conditions that have left hundreds of thousands without basic human necessities. It has carried out indiscriminate, disproportionate, and direct attacks on civilians and "civilian objects," such as schools and hospitals. Some 28,000 Palestinians have been killed, the majority of them women and children. Vast sections of Gaza have been pulverized; a fifth of its infrastructure and most of its homes are now damaged or destroyed, leaving the region largely uninhabitable. Israel imposed a prolonged blockade, denying Palestinians adequate food, potable water, fuel, Internet access, shelter, and medical care: action amounting to collective punishment. It is detaining Gazans in inhumane and degrading conditions, and Israel admits that some of those detained have already died. Meanwhile, in the West Bank, violence against Palestinians by Israeli forces and settlers has increased markedly.

The United States and many Western countries have supported Israel, providing military assistance, opposing calls for a cease-fire at the United Nations, stopping funding of the UN Relief and Works Agency serving Palestinian refugees, and rejecting South Africa's genocide case against Israel at the International Court of Justice (ICJ), even as the carnage continued to unfold.

Today's diplomatic complicity in the catastrophic human rights and humanitarian crisis in Gaza is the culmination of years of erosion of the international rule of law and the global human rights system. Such disintegration began in earnest after 9/11, when the United States embarked on its "war on terror," a campaign that normalized the idea that everything is permissible in the pursuit of "terrorists". To prosecute its war in Gaza, Israel borrows ethos, strategy, and tactics from that framework, doing so with the support of the United States.

It is as if the grave moral lessons of the Holocaust, of World War II, have been all but forgotten, and with them, the very core of the decades-old "Never Again" principle: its absolute universality, the notion that it protects us all or none of us. This disintegration, so apparent in the destruction of Gaza and the West's response to it, signals the end of the rules-based order and the start of a new era.

Gaza, end of rules-based order

What Israel-Hamas war means for future of human rights, int'l law



Displaced Palestinians from Beit Hanoun sleep inside a UNRWA school in Jabalia refugee camp in the northern Gaza Strip.
ALESSIO ROMENZI/TIME

The age of universality

Universality, the principle that all of us, without exception, are endowed with human rights equally, no matter who we are or where we live, lies at the heart of the international human rights system. It was the foundation of the Genocide Convention and Universal Declaration of Human Rights, both adopted in 1948, and it continued to inform new means of accountability over the years, including the International Criminal Court, established in 2002. For decades, that legal infrastructure has helped ensure that states uphold their human rights obligations. It has defined human rights movements globally and underpinned the twentieth century's greatest human rights achievements. A critic of this system might argue that states have only ever paid lip service to universality. The twentieth century abounds with examples of failures to uphold the equal dignity of all: the violence used against those advocating for decolonization, the Vietnam War, the genocides in Cambodia and Rwanda, the wars that followed the breakup of Yugoslavia, and many more. These events all testify to an international system rooted more in systemic inequality and discrimination than in universality. With good reason, one could contend that universality was never applied to Palestinians, who, as the Palestinian-American scholar Edward Said expressed it, have been instead, since 1948, "the victims of the victims, the refugees of the refugees". Yet the fate of universality resides not in the hands of those who betray it. Rather, as a perennial ambitious project for humankind, its power rests, first and foremost, in its continual proclamation and in its persistent defense. Throughout the twentieth cen-

ture, the principle of universality had countless setbacks, but the overarching direction was toward proclaiming, affirming, and defending it. That shifted, however, in the early years of the twenty-first century, with the unleashing of the "war on terror" following the tragic events of 9/11.

Taking the gloves off

For the last 20 years, the doctrine and methods of the "war on terror" have been adopted or mimicked by governments all over the world. They have been deployed to expand the reach and range of state "self-defense" measures and to hunt down, with the barest of restraints, any people or authorities deemed to warrant the loosely defined but widely applied designation of "terrorist threat".

The extraordinary toll of civilian killings in Gaza committed in the name of both self-defense and countering terrorism is a logical consequence of that framework, which has perverted and almost dismantled international law and, along with it, the principle of universality.

American airstrikes in Afghanistan, Iraq, Pakistan, Somalia, and Syria resulted in mass civilian casualties. Invariably, the US military would claim that it had taken the necessary steps to protect civilians. But it gave little explanation as to exactly how it distinguished civilians from combatants and why, if distinguished properly, so many civilians had been killed. Israel's massive bombardment of Gaza has roots that go deeper in history than the long-running "war on terror," including the 1948 expulsion of roughly 750,000 Palestinians from their homes, which came to be known as the Nakba, or catastrophe. But it is also a thoroughly twenty-first-centu-

ry manifestation of the erosion of international law, in which little to none of the restraints set by the post-World War II system have been respected: not those in the UN Charter, in international human rights law, or even under the Genocide Convention, as argued by South Africa.

Where is the outcry?

Immediately after October 7, Western governments condemned Hamas and expressed unconditional support for Israel, an understandable and predictable response to the horror inflicted on the population of a close ally. But they should have shifted their rhetoric once it became clear, as it quickly did, that Israel's bombing of Gaza was killing thousands of civilians. All governments, especially those with influence over Israel, should have unequivocally and publicly denounced Israel's unlawful actions and called for a cease-fire, for the return of all captives, and for accountability for war crimes and other violations on both sides.

It did not happen. For the first two months of the war, the Biden administration largely downplayed the loss of lives in Gaza. It failed to denounce Israel's relentless bombings and devastating siege. It did not acknowledge the context of the Israeli-Palestinian conflict, including 56 years of Israeli military occupation, and instead bought into Israel's counterterrorism framing.

And as the war continued, the Biden administration defended Israel's tactics. It parroted certain of Israel's unverified and later repudiated claims about Hamas atrocities. Although the United States eventually became more vocal about the protection of Palestinian civilians, it has refused to publicly support key steps that would

help save their lives. Instead, at the UN, the United States vetoed Security Council resolutions calling for humanitarian pauses to the war. Only on December 22 did it permit, through its abstention, the Security Council to adopt a compromise resolution calling for "urgent steps to immediately allow safe and unhindered and expanded humanitarian access" to Gaza and "the conditions for a sustainable cessation of hostilities". It has never publicly entertained stopping its arms transfers to Israel.

Within days of the ICJ ruling and its calls for provisional measures to prevent genocide in Gaza, the United States and a number of other Western governments canceled funding to the UN Relief and Works Agency, which provides a lifeline to people in Gaza. That decision does not just ignore the evident risks of genocide; it serves to amplify and accelerate them. The United States' superpower status and its influence over Israel means Washington is uniquely positioned to change the reality on the ground in Gaza. More than any other country, the United States can prevent its close ally from continuing to commit atrocities. But thus far, it has chosen not to.

This pattern of conduct comes at a huge cost. As one G-7 diplomat has put it, "We have definitely lost the battle in the Global South. All the work we have done with the Global South (over Ukraine) has been lost. ... Forget about rules, forget about world order. They won't ever listen to us again."

A change of eras

Although there were rehearsals for events in Gaza that showed extreme disregard for international law, the war there may well signal a curtain