Introduction

On October 10, 2024, almost a year after the beginning of Israel's genocidal war on Gaza, a group of UN independent human rights experts issued the statement declaring that "the world faces the most profound crisis since the end of World War II".1 The experts alluded to the atrocities that the world witnessed in World War II and that have resulted in "a collective determination to say 'Never Again'" and the creation of the United Nations to achieve that goal. However, one year since the 7 October, the world has witnessed apocalyptic forms of violence and genocidal attacks, ethnic cleansing and collective punishment of Palestinians, "which risks breaking down the international multilateral system" in the international community continues to fail in putting an end to this violence.

Since the early 20th century, international law has played a key role in the creation and management of the Palestinian problem. The issuance of the Balfour declaration by the British authorities in 1917, and its incorporation into the 1922 League of Nations Mandate for Palestine, with the explicit aim of establishing a Jewish homeland in Palestine, allowed the colonization of Palestine under the auspices of the existing legal order. Coloniality continued to shape the ways in which international law intertwined with the Palestinian question. The 1947 Partition Plan under the auspices of the newly established United Nations, and the blunt creation of an exception for Palestine and the denial of its inhabitants from the right to self-determination is a clear exemplification of coloniality in action. As Ardi Imseis highlights, the UN partition plan "introduced a rupture in the purportedly new international legal order and challenged the primacy of the international rule of law as affirmed in its own Charter."2

Since then, the issue question of Palestine was a recurrent internationalized issue on the UN agenda not only due to the active involvement of the UN in the establishment of Israel and the creation of the Palestinian problem, but also because the question of Palestine became entangled with the Jewish question that occupied Europe for more than a century, and because of the special relations between the US and Israel.

The international law post-WWII continued to favor the interests of colonial powers by advancing notions of sovereignty based on a Westphalian model that structurally disfavored people living in colonies. Dirk Moses highlights that the legal innovation post WWII, such as the adoption of the Fourth Geneva Convention with the aim of protecting the rights of civilian living under foreign military occupation "did not banish the centuries-old jurisprudence about warfare and its consequences, in which the killing of civilians can be legally sanctioned by proportionality principles".3 The decolonization wave of 60s and the 1970s that changed the dynamics at the UN, at least General Assembly, succeeded in elevating national liberation and self-determination into a key international law principle, and

using it to challenge the political and moral justifiability of foreign domination, even though it was uncapable of outlawing the phenomenon of occupation or preventing an occupation from becoming a "transformative colonial annexation".4

But this only one part of the story. Palestinians themselves and their allies still believed that international law could be a helpful tool for articulating and remedying their grievances. When the UN established the United Nations Special Committee on Palestine to prepare a report on recommendations for Palestine, Arab States refused to collaborate with claiming that the transition of authority over Palestine from the League of Nations to the UN was questionable in law as it circumvented Palestinian statehood, and attempted, albeit unsuccessfully, to bring this issue before an International Court. Since the 1950, Palestinians have invoked international law to seeking protection from and accountability for Israel's offensive policies. However, as Michelle Burgis-Kasthala shows in her ethnographic study, legal professionals engaged in international law and human rights in the context of Palestine are aware of its limitation and colonial bias. What they do is "balance hope, despair, and denial about the limits of international",5 as they "must constantly negotiate the dialectic of international law's constraining and enabling qualities."6 This resonates with the political and intellectual project embraced by many international law scholars from the Global South, including a movement known as Third World Approaches to International Law (TWAIL). TWAIL had indeed highlighted how the colonial roots of international law resulted in the creation of a racialized hierarchy of international norms and institutions. At the same time, TWAIL scholars continue to view international law as an impregnable project that needs decolonization. Their work has committed themselves to presenting alternative conceptions and structures of the international legal order. Decolonizing international law is a central part of their intellectual endeavor since they believe that "international law can be transformed into a means by which the marginalized may be empowered."7

In relation to the ongoing genocidal war in Gaza, apparently, we are witnessing two contradictory trajectories. One the one hand, we are witnessing the shocking failure of the UN and particularly the Security Council in putting an end to a livestreamed genocide that was unleashed more than a year. So far, the apocalyptic violence inflicted on a starving and besieged civilian population in Gaza and the destruction of all infrastructure and institutions necessary for sustaining life have been met with impunity. This impunity was actively installed by countries like the US and Germany using the language of self-defense to shield Israel from accountability. Even the series of provisional measures indicated by the ICJ in the case brought by South Africa against Israel accusing it of violating the genocide convention failed to trigger minimal international action, such as the imposition of weapons embargo on Israel under the false pretext that Israel is exercising its right to self-defense.

This is a tantamount to the dismantling or restructuring the international order that was put in place after WWIII in its entirety. Just recently, Raji Sourani, the founder of the Palestinian Centre for Human Rights in Gaza, and a key member of the South African legal team that took Israel to the international

court of justice on a charge of genocide, warned "[t]here are people who want Gaza to be the graveyard of international law. In whose interest is that? Either you have the rule of law, or you have the rule of the jungle. There is no in-between."8

The dismantling of the existing international legal order, already tainted with colonial legacies, was pursued through reproducing a colonial construction of self-defense and creating a dangerous hierarchy between, Jus ad bellum, which refers to the conditions under which States may resort to war or use military force against other states, and Jus in bello, known also as International Humanitarian Law, which regulates the conduct of parties engaged in an armed conflict with the aim to minimize human suffering in times of war by providing protections for those who take no active part in hostilities. Not only the right to self-defense was treated as a right that trumps all other legal obligations; basic principles International Humanitarian Law, namely the principle of distinction and the principle of proportionality, are being eroded and emptied from any meaningful content.

On the other hand, we have witnessed the mobilization of the Global South, exemplified in the South Africa's decision to resort the International Court of Justice and sue Israel for violating its obligation under the Genocide Convention. The indication of a series of provisional measures in the case was seen by many as marking the end of an era where Israel's unconditional impunity was the norm. This mobilization was witnessed on a larger scale when more than fifty states decided to participate in the hearing of the International Court of Justice in the advisory opinion on the legal illegality of the Israeli occupation in the OPT arguing that the Israeli Occupation in its entirety is illegal. The opinion of the court, which endorsed this position declaring the occupation as a violation of peremptory norms of international law, including the right to self-determination, the prohibition on acquiring land through war, key principle of international humanitarian law, and the prohibition of racial segregation and Apartheid, also symbolized the end of the era of impunity. The operative part of the opinion of the court, which included language that resonates with the language of sanctions, was also embraced and echoed in the UN General Assembly resolution of September 18, 2024, demanding that Israel "brings to an end without delay its unlawful presence" in the OPT, and do so within 12 months. It also called upon Third States to implement sanctions against "natural and legal persons engaged in the maintenance of Israel's unlawful presence in the Occupied Palestinian Territory." Also, the declaration of Karim Khan about his intention to seek arrest warrants against Netanyahu and Gallant for crimes against humanity and war crimes were seen as an important step in the right direction. Such developments made Mouin Rabbani argue "the era of absolute impunity enjoyed by the Israeli state and its leaders appears to be coming to a gradual end."9

There is clear clash between these two trajectories, and it was evident in the failure of the provisional measures issued by the ICJ in the genocide case to generate meaningful action, such as the imposition of arms embargo on Israel or other sanctions for its failure to comply with the provisional measures. It was evident in the refusal of Western states, with a few exceptions, to endorse the UNGA resolution that echoed the advisory opinion of the ICJ and the attempt of Western states to hamper the work of

the ICC either through using legal processes to claim that the court had no jurisdiction over Israel or through intimidating tactics and threats. So how do we understand these conflicting trajectories? What impact are they going to have on the international legal order? Can both trajectories exist in one legal order? How did the Gaza moment different from the Ukraine moment which was claimed to threaten the international order?

The war on Gaza also serves as a painful example of how the legal language is incapable of capturing the magnitude of human suffering and the destruction of the very fabric of social life. As Christine Schwöbel-Patel, Nahed Samour and Michelle Burgis-Kasthala reminds us, in discussing the plausibility of genocide being committed in Gaza and the legal implication of the provisional measures issued by the ICJ "international lawyers are embroiled in highly technical legal debates, the importance of which pales in the face of very real death and destruction." In the same vein, some scholars argue that in the absence of a clear definition of settler-colonialism in international law and a legal norm to prohibit, the legal language would always be lacking, is that so? Are there other ways to resist legal subalternity?

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The 95th issue of Qadaya Israeliya is published a year after the devastating war on the Gaza Strip, examining the international community›s response and the role of legal organizations in these events. This issue offers a critical and analytical review of the effectiveness of these interactions, exposing their limitations and challenges. Through in-depth articles and studies, it aims to deepen understanding of international mechanisms in conflict resolution, emphasizing the urgent need to reassess and strengthen these mechanisms to achieve justice and redress.

In her article «Decolonization Post-Gaza,» co-editor Sonia Boulos critically examines the recent trend of Western European countries recognizing Palestinian statehood. She argues that the conventional «two-state solution» inadequately addresses the colonial dimensions of the conflict. Instead, Boulos advocates for a renewed emphasis on self-determination to dismantle colonial structures, transcending the limitations of the Green Line. She references the recent advisory opinion of the International Court of Justice, which underscores Israel›s obligations under international law, viewing it as a foundational support for strategies aimed at achieving justice for Palestinians beyond the confines of proposed state borders.

The second article is a translation of a series of vignettes from the 2024 special issue of the London Review of International Law. Contributors offer critical perspectives on the dual role of international law, often functioning as a tool for justifying hegemony rather than serving as a mechanism for accountability and resistance. These articles underscore the importance of reinterpreting the law through the lens of vulnerable communities engaged in struggles for freedom and dignity.

In their paper, «Continuous Wrongdoings: Rethinking Gaza Beyond Genocide,» Zeina Jallad and Arnulf Becker Lorca critique the limitations of international law in addressing the Palestinian

catastrophe. They propose the concept of «ongoing violations» to capture the continuous and cumulative nature of the injustices faced by Palestinians, arguing for a reimagined legal framework that reflects the structural dynamics of occupation rather than focusing solely on the crime of genocide.

In the article « Germany's anti-antisemitic complex and the question of settler colonialism,» Lorenzo Veracini examines Germany›s unwavering support for Israel alongside its acute sensitivity to accusations of anti-Semitism. Veracini argues that this support serves to uphold a colonial framework that suppresses criticism of Israel›s policies toward Palestinians. He links Germany›s repressive stance on free expression concerning the Palestinian cause to its ongoing reluctance to confront its colonial past.

The concluding article under this theme, « Israel's war on Gaza in a global frame,» by Mohamed El-Shewy, Mark Griffiths, and Craig Jones, provides a comprehensive analysis of Israeli military aggression as bolstered by an extensive global network of military and logistical support. The authors examine the role of advanced weapons technology—including F-16s, GBU bombs, and equipment from Israel's Elbit Systems—to reveal how the Gaza conflict is embedded within a globalized military-industrial framework, underscoring the need for wide-reaching accountability and a critical reassessment of international complicity in sustaining such operations.

Beyond the theme of international law, this issue features a range of additional articles. In «The Auschwitz Borders: How Israeli Society Understood the War on the Palestinians,» Jamal Mustafa explores the evolution of Israel›s dual narrative, balancing the identities of the «victim Jew» and the «Jewish fighter.» Mustafa argues that this dichotomy has driven the militarization and ideological cohesion of Israeli society, framing the war against Palestinians as an «existential» struggle and depicting Palestinians as «absolute evil.» This historical perspective serves as a lens to understand the unifying impact of militarization within Israeli society and the future trajectory of an enduring conflict.

In the article «Israeli Short Films: Persuasive Grooming in the Service of the Israeli Narrative,» Hana Zareer explores how Israeli short films are employed to influence public perception through artistic techniques that embed subtle, pro-Zionist messages. Analyzing three films, Zareer shows how directors use emotional appeals to intensify viewer empathy for the occupation and rationalize violence against Palestinians as acts of self-defense. This study illustrates how such films contribute to embedding the Israeli narrative within the broader discourse on the conflict.