

Human rights trampled by lawless powers

F. P. 17.1.02 Arjan El Fassed *Human rights*

It is easy to become cynical about the relevance of international law these days. Our sensibilities are flooded with images of war, violence and atrocities. In these circumstances, it seems more necessary than ever before to protect the public's well-being to whatever extent possible by working for effective implementation of existing international laws, in particular the laws of war. Many governments seem to have lost all sense of moral and legal responsibility. Despicable crimes continue to be committed against innocent people in different parts of the world.

In 1948 the nations of the world adopted the Universal Declaration of Human Rights, which provides, inter alia, that "if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, human rights should be protected by the rule of law." However, in 2002, violence and gross violations of human rights and of humanitarian law continue to be perpetrated by governments.

By reason of power politics, and of the breakdown in the standards of public morality, the United Nations has been precluded from dealing with horrendous crimes committed by governments in defiance of international law. Accordingly, the victims remain unprotected and those responsible escape punishment. Often these dreadful deeds remain unexposed. Governments have sought to conceal their criminal conduct. Thus, the international rule of law has been eroded and the public conscience blunted.

In essence, the fundamental effort of law in this area is to prohibit aggressive recourse to war, and then, should war occur, to regulate the conduct of war to protect the innocent, minimize suffering and restrict overall damage. In today's 'war on terrorism', governments that designate their enemies as 'terrorists' tend to treat the conflict as outside the law. Yet it is in these conflicts that the need for law is the greatest - that is, where battlefield tactics often tend to concentrate on civilians and civilian sanctuaries and to ignore the distinction between military and non-military.

In this sense, it should be recalled that as late as 1986, Nelson Mandela's African National Congress (ANC) was classified as a 'terrorist organization' by the US administration. Moreover, leading members of the Israeli government, including former prime ministers, were once wanted by the British mandate government in Palestine on charges of terrorism. According to Israel's former Prime Minister Yitzhak Shamir, Israeli Jews were justified in using terrorism to win statehood, while Palestinians are not.

Definitions of 'terrorism' are a function of who is doing the defining. Between 1965 and 1988, 30 times more Palestinian civilian deaths were caused by Israeli violence than Israeli civilian deaths were caused by Palestinian violence.

The ANC was removed from the American list of terrorist organizations without the organization changing either its tactics or its programme. All people share an interest in achieving a more lawful world. The failure of governments to uphold the law of war, either with respect to recourse to war or to its conduct, creates a normative vacuum in relation to the most serious questions confronting humanity. This also includes the use of 'terror' by state parties.

International humanitarian law prohibits attacks on a civilian population as such, as well as attacks on individual citizens. Acts or threats of violence, the primary purpose of which are to spread terror among a civilian population, are prohibited. This, in particular, relates to Israel's treatment of Palestinians living under occupation. The position in international law is clear. An occupying power has strict responsibilities for all protected persons within its jurisdiction.

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Violence in the Middle East did not start in September 2000. Israel occupied the West Bank and the Gaza Strip in 1967. Many well-documented occurrences of Israeli terror have taken place over the years. Watching the news today, one must not overlook the extent to which Israeli participation in aggression and violence against Palestinians creates a most disturbing pattern of terror directed against civilians, including women, children and the aged.

Dehumanization by way of political language has an anaesthetizing effect and it paralyses normal human empathy and disrupts moral inhibitions. Ariel Sharon's insistence on mopping up '2,000 terrorists' in Sabra and Shatila in 1982 was virtually a mandate for the indiscriminate slaughter of 2,000 Palestinians.

The predominant terminology employed by Israeli spokespersons, the US government, and, to a great extent, the media, is an additional factor in creating conditions in which indiscriminate and excessive use of force can occur, as well as the conditions in which human rights violations and war crimes are tolerated.

The distinguished American prosecutor at Nuremberg, Robert H. Jackson, formerly a US Supreme Court Justice, said: "Let me make clear that if this law is first applied against German aggressors, it must [also] condemn aggression by other nations, including those who sit here now in judgment."

This crucial promise to the future has not been kept. There has been no serious effort since 1945 to apply these legal standards, at official level, despite the numerous occasions on which international law has been flagrantly violated by one or another participant. Governments have failed to carry out their responsibility.