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Desensitising Modern Warfare through International Law

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Abstract

This paper reflects upon the representations of war in international legal language. It discusses the representation of the Siege on Homs (2011-2014) using the medium of international law. These reflections raise questions about international law's relationship with the reality of contemporary war defined by colonial residues and imperial ambitions. The language of international law represents war in a manner desensitised to some forms of violence, particularly those imposed collectively, economically, or inflicted on the 'Other' of international law. Such desensitisation is a built-in feature of international legal language. To make this argument, I first study international law as a language that shapes our perceptions of reality before reflecting on how this language can distort our perception of reality. Thereafter, I demonstrate how solipsism, dissociative tendencies and hyper-rationalism work to sustain distorted perceptions of reality and effectively desensitise our perception of contemporary warfare. To counter such desensitisation, I propose a methodological approach that centres precarity and structural injustice at the heart of our reckoning with the reality of warfare.

Key words

siege; war; colonialism; brutality; international law

1 Introduction

The documentary film *The Return to Homs* features Abdul-Bāsit al-Sārūt,[1] one of the icons of the Syrian Revolution.[2] Amid visuals of the intense bombing by the Syrian regime on the besieged city of Homs in 2013, the director inserts footage of United Nations (UN) representatives coming to observe the area. Calling upon these organisational representatives of international law is presented, in the film, as a last glimpse of hope for the city. At first, the scene brings a small sense of calm because it appears that the world is reacting at last. But this sense of calm is eradicated by the body language of the UN representatives, who seem detached from their surroundings

[1] Talal Derki, *The Return to Homs* (Amsterdam, 2013).

[2] See The New Arab, 'Former football star and 'guardian of the revolution' killed in battle in Syria' (8 June 2019) https://www.newarab.com/news/goalkeeper-revolution-killed-syrian-regime-forces (accessed 22 January 2023).

and from the symbolic hope that their institution sells.[3] The short scene ends with al-Sārūt calling a woman and telling her: 'The regime stopped the bombing before the observers came, they had sent us six observers who stayed for half an hour. Six observers for the whole city of Homs! A destroyed city! They were not able to do anything!'[4] A tone of harsh absurdity echoes through this scene as al-Sārūt encounters the realm of international law.

The brutal siege of Homs was later described by the UN as a source of 'extreme concern' for the 'conflict-affected' civilian population, with UN agencies stressing the need for humanitarian aid.[5] The violence of the siege, which in the documentary is shown in its biblical and tragic proportions, is watered down through the language of international humanitarian law (IHL). Physical loss of human life is quantified into numbers. Survivors are represented as either civilian victims or combatants. The complexity of resilience is reduced to a quick shot taken during a fleeting trip to a war-torn city.[6]

This article harnesses the frustration of al-Sārūt's call with the woman by reflecting on structural issues that go beyond the lack of political will. It reflects upon the representations of war in international legal language. Section 2 discusses the two representations of the siege on Homs — one presented in the documentary, and the other conveyed by the UN. These reflections raise questions about international law's relationship with reality. The language of international law represents war in a way that is heavily desensitised to some forms of violence, particularly those imposed collectively, economically, or inflicted on the 'Other' of international law. Such desensitisation is a built-in feature of international legal language. To make this argument, in Section 3 I analyse international law as a language that shapes our perceptions of reality and I then reflect on how this language can distort our perception of reality. Thereafter, in Section 4 I demonstrate how solipsism, dissociative tendencies and hyper-rationalism work to sustain distorted perceptions of reality and effectively desensitise our perception of contemporary warfare. To counter such desensitisation, I propose a methodological approach in Section 5 that centres precarity and structural injustice at the heart of our reckoning with the reality of warfare.

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[3] 'The remove between human rights professionals and the people they purport to represent can reinforce a global divide of wealth, mobility, information and access to audience': David Kennedy, *The Dark Sides of Virtue: Reassessing International Humanitarianism* (Princeton University Press, 2004) 46.

[4] Derki (2013).

[5] UN News, 'Syria: UN human rights office underscores civilian protection amid ongoing fighting in Homs' (15 July 2013) https://news.un.org/en/story/2013/07/444002 (accessed 12 June 2024).

[6] On the absence of resilience in international law, see Frédéric Mégret, 'Helping the Syrians Help Themselves? The Ambiguities of International Assistance to the Rebellion' (2014) 3 *Stability: International Journal of Security & Development* 1.

2 Desensitised Representations of Brutality

In Homs, al-Sārūt was a well-known goalkeeper for a local football team called *al-Karāma* (meaning 'Dignity'). Al-Sārūt was born into a low-income family living in the unplanned neighbourhood of Al-Bayāḍa. His conditions of life were defined by precarity that escalated after the eruption of war. When the demonstrations against the Syrian regime started in 2011, he turned from a football player into the voice of the revolution. His chants reverberated across the city of Homs as he morphed into an icon for Syrian citizens seeking emancipation from a dictatorial regime. By 2012, the regime imposed varied forms of collective punishment on the Al-Bayāḍa neighbourhood, killing hundreds of its citizens, cutting supply routes, and destroying its infrastructure.[7]

Contemporary siege tactics are inspired by colonial means, and are defined by the asymmetry in power that is symbolised by aerial bombardment. Technological development coupled with the privatisation of the military industry has provided the means for efficient elimination of the 'Other' for those with access to capital. The brutality of the siege on Homs placed the residents of Al-Bayāḍa in circumstances which are unimaginable to anyone who has never lived through a war. By 2013, some of the residents of Homs had resorted to eating leaves and cat meat to avoid dying of hunger.[8] For two years, an estimated 240,000 people were trapped without healthcare, electricity and safe water supply, and were living under the constant threat of aerial bombardment.[9] Understanding such suffering requires stepping out of the parameters of the individual experience in order to conceptualise the complex interrelations that shape collective suffering.

Describing such suffering, the spokesperson for the UN Office of the High Commissioner for Human Rights (OHCHR) stated that the UN organisation is "extremely concerned' about up to 4,000 *civilians* who may be trapped by heavy fighting in and around the Syrian city of Homs, where a *major Government offensive* has been underway for more than a week.'[10] The OHCHR reported that 'between 2,500 and 4,000 *civilians*, including women and children, are still trapped in and around Homs facing shortages of food, water, medicine, electricity and fuel.'[11] In their press conference on 5 July 2013, the spokesperson for the OHCHR further confirmed that 'the Al-Khaldiya neighbourhood has been experiencing heavy shelling since the early hours of this morning' and that 'recent reports suggest that armed opposition groups

[7] Al Jumhuriya Collective, 'The days of Abd al-Basit' (13 June 2019) https://aljumhuriya.net/en/2019/06/13/the-days-of-abd-al-basit/ (accessed 22 January 2023).

[8] Syria Untold, 'Eating Cats as Resistance to Submission' (4 November 2013) https://syriauntold.com/2013/11/04/eating-cats-as-resistance-to-submission/ (accessed 22 January 2023).

[9] OHCHR 'Living under Siege: the Syrian Arab Republic' (9 February 2014) https://www.ohchr.org/en/documents/research-papers/living-under-siege-syrian-arab-republic (accessed 23 January 2023).

[10] UN News (2013). Emphasis added.

[11] Ibid. Emphasis added.

are operating inside residential areas increasing the risk for *civilians*.'[12] He further acknowledged that 'the *siege* began 13 months ago but has escalated since June 28 following a major offensive launched by the national forces and affiliated militias to retake several opposition-controlled districts'.[13] In response, the OHCHR called upon all parties 'to respect their obligations under international law, avoid *civilian* casualties and allow trapped *civilians* to leave without fear of persecution or violence,' and 'for unrestricted and immediate *humanitarian access* to all conflict-affected populations in besieged areas.'[14] As such, the rendering of these statements in the language of humanitarian law functions to desensitise the brutality of the siege and all of those affected by it, by distorting their reality. In effect, the language of humanitarian law alienates the reader and shields the possibilities of genuine solidarity by distorting the answers to the questions of 'why' and 'how'.

A siege is not illegal per se under international law. The presence of a siege rather incites concern that other violations of law might occur.[15] The biggest concern is the starvation of civilians, which is prohibited as a method of warfare, though state practice has interpreted this prohibition restrictively.[16] As such, the word siege in IHL does not incite emotion over the collective and structural harms caused. The questions of 'who?' and 'why?' are rendered irrelevant in assessing how we might collectively work in solidarity with the Syrian people—a question that ought to be intuitive for a discipline centred around international peace and security. Rather, the language of IHL zooms in on individual harm and calls for humanitarian aid, wherein the outsized proportion of violence committed on a collective level—and its interrelation with global value chains—is not given adequate representation.

In this sense, the word 'siege' in international legal language trivializes its brutality in a way that is shocking to anyone who has lived through a siege or read the colonial history of concentration camps. This, in turn, facilitates arguments for the protraction and normalisation of sieges, as in the case of the Israeli siege of Gaza that has been ongoing since it withdrew its military bases and colonial settlements inside Gaza in 2005. Further, it allows for conversations about sieges in the media that undo

[12] OHCHR, 'Press Briefing notes on Homs and Egypt' (5 July 2013) https://www.ohchr.org/en/press-briefing-notes/2013/07/press-briefing-notes-homs-and-egypt?LangID=E&NewsID=13505 (accessed 16 September 2025). Emphasis added.

[13] UN News (2013). Emphasis added.

[14] Ibid. Emphasis added.

[15] Emanuela-Chiara Gillard, 'Sieges, the Law and Protecting Civilians' (Chatham House, 2019) https://www.chathamhouse.org/sites/default/files/publications/research/2019-06-27-Sieges-Protecting-Civilians_0.pdf (accessed 23 January 2023).

[16] Maxime Nijs, 'Humanizing Siege Warfare: Applying the Principle of Proportionality to Sieges' (2020) 102 *International Review of the Red Cross* (2005) 683, 704; Protocol Additional (II) to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts, 25 UNTS 609, 8 June 1977 (entered into force 7 December 1978) (AP II), Art. 14.

and unsee the abnormality of such forms of collective harm, despite sieges amounting to a form of collective imprisonment.[17]

In 2012, the city of Homs was in perpetual mourning. Al-Sārūt had lost his brother and a considerable number of his friends. This was when he decided to partake in armed resistance against the regime, forming—along with his neighbours and friends—the 'Bayāḍa Martyrs' Brigade'.[18] Those affected by war are imagined either as victims (civilians) or aggressors (combatants). By taking up arms with other non-state armed actors, Al-Sārūt moved from the category of civilian to combatant. However, it is important to note that some would argue that he was an "unlawful combatant", as the non-state armed group was not recognised by the international community.[19] In the OHCHR press conference discussed above, such brigades were primarily perceived as a *risk*. Questions as to whether such armed resistance, at the time, was an exercise of the right to self-determination were not addressed.[20] Later on, elements such as the prolonging of the war, poverty, and imperial intervention paved the way for the evolution of a complex mosaic of armed factions exploiting the unrest to gain power.

As Abi-Saab has shown, the dismissal of questions of self-determination from the international laws of non-international armed conflict (NIAC) was a historical choice made during the negotiations of the First Additional Protocol to the Geneva Conventions, due to opposition from the economically advanced states.[21] In the face of this omission, the terminologies of 'counter-insurgency' and 'counter-terrorism' were introduced to fill the void.[22] These indeterminate terminologies facilitate what Graham describes as a 'linguistic trick' to devalue the life of whoever is now attached to labels of inciting unlawfulness,[23] consequently generalizing 'guilt-by-association'.[24] As such, international legal language facilitated the Syrian government's capacity to make generalising claims about the terrorist tendencies of all residents of this area to

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[17] 'This humanitarian gaze is also evident in the United Nations' report declaring Gaza to be unliveable by 2020, with little to no mention of the occupation or the brutal siege leading to these living conditions': Nayrouz Abu Hatoum and Hadeel Assali 'Attending to the Fugitive: Resistance Videos from Gaze' in Nadia Yaqoub (ed.) *Gaza on Screen* (Duke University Press, 2023) 152.

[18] See 'Syrian Soccer Star, Symbol of Revolt, Dies After Battle' *The New York Times* (8 June 2019) https://www.nytimes.com/2019/06/08/world/middleeast/syrian-soccer-star-rebel-sarout-dies.html (accessed 21 April 2022).

[19] See Frédéric Mégret, 'From "Savages" to "Unlawful Combatants": A Postcolonial Look at International Humanitarian Law's "Other"' in Anne Orford (ed.), *International Law and its Others* (Cambridge University Press, 2006).

[20] The statements of Al-Bayāḍa Brigade, and the consequent chants sang by Al-Sārūt had strong themes of self-determination, accountability and reliance, see Al Jumhuriya Collective (2023).

[21] See Georges Abi-Saab, *Wars of National Liberation in the Geneva Conventions and Protocols* (M Nijhoff, 1981).

[22] See generally, Nathaniel Berman, 'Privileging Combat? Contemporary Conflict and the Legal Construction of War' (2004) 43 *The Columbia Journal of Transnational Law* 22-24; Stephen Graham, *Cities Under Siege: The New Military Urbanism* (Verso Books, 2011) 238-239.

[23] Graham (2011) 59.

[24] Mark Taylor, *War Economies and International Law: Regulating the Economic Activities of Armed Conflict* (CUP, 2021) 268.

justify the siege and undermine claims of self-determination. Similar argumentation has also been used in abundance by Israel to justify the genocide in Gaza (2023-ongoing).

Through the prism of international legal language, the Bayāḍa Martyrs' Brigade can be imagined as either an equal belligerent to the state or as an entirely unlawful entity. The two collective actors are understood as rational totalities; one set of rights holders up against another set of rights holders. The ambiguities of how NIACs are imagined in IHL allow for the persistence of the myth that belligerents are equal opponents.[25] Disparities in leverage and capacity are not accounted for.[26] The repressive nature of Al Assad's regime, the insane human toll of aerial bombardment supplied through a privatised global 'defence' industry, and the imperial aspirations of Russia, the United States (US) and other states at play in the background were omitted from the story. Articulating the disdain for foreign intervention, Al-Sārūt sang: 'we do not need the NATO... It is we who will bring him [to justice]'.[27] In this context, protection becomes another code-word for imperial aspirations.

Meanwhile, the virtues of resilience and the complex positionalities of varied members in Al-Sārūt's community are not translatable into the language of international law.[28] Their needs are only translatable in humanitarian terms with a focus on certain direct physical needs. The lens of IHL tells a story of imminent individual need using images and signifiers of victimhood.[29] In so doing, it discards the structural and relational elements of the story.[30] The urgency of ending the siege is relegated to endless bureaucracy that sells false hope to the subjugated population, and emanates feel-good vibes for UN bureaucrats. In this sense, stories through the lens of IHL are similar to some Hollywood productions of war based on a foreigner's gaze and focused on the journey of a sole protagonist.[31]

In a video interview with the destroyed city visible in the background, Al-Sārūt says:

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[25] See Robin Geiß, 'Asymmetric Conflict Structures' (2006) *88 International Review of the Red Cross* 757.

[26] In principle, asymmetry between belligerents can be defined as a steep difference in capacities 'either in terms of their legal status, power capabilities, or strategies': Christofer Berglund & Emil Aslan Souleimanov, 'What is (not) asymmetric conflict? From conceptual stretching to conceptual structuring' (2020) 13:1 *Dynamics of Asymmetric Conflict* 87, at 89.

[27] Abduljalil Orabi, *'حانن للحرية حانن / من البطل عبد الباسط ساروت ابو جعفر مع ابطال ومجاهدي حمص المحاصرة'* (October, 2013) <https://www.youtube.com/watch?v=VvNcKiVRmWY> (accessed 13 August 2025).

[28] Mégret (2014).

[29] 'The production of authentic victims, or victim authenticity, is an inherently voyeuristic or pornographic practice which, no matter how carefully or sensitively it is done, transforms the position of the 'victim' in his or her society and produces a language of victimization for him or her to speak on the international stage.' Kennedy (2004) 29.

[30] See Iris Marion Young, *Justice and the Politics of Difference* (Princeton University Press, 2011) 20.

[31] For example, the Netflix production *The Swimmers* tells the story of the Syrian Olympic swimmer Sarah Mardini. The movie decontextualises the story by zooming in on the protagonist to provide a humanitarian narrative. For a critique, see Salim Biek, 'The Swimmers: Tragedy as a subject for consumption' (Al Quds al Araby, 13 December 2022) [in Arabic] https://www.alquds.co.uk/السباحتانالمأساة-مادة-للاستهلاك/(accessed 23 January 2023).

> To the international community, we demand the end of the siege, not your humanitarian aid … your humanitarian aid is another form of degradation … we refuse to be subordinated to anyone … we are the people of this land and we decide … it is not your sympathy that we are looking for … accountability against Bashar al Assad is what we need.[32]

For onlookers in the UN Headquarters, the OHCHR representation of the siege prompted humanitarian concerns for individual loss of life. Other forms of collective violence imposed on the besieged population received minimal attention. The citizens of Homs were represented primarily using signifiers of victimhood or aggression. The language of international law did not provide symbols and signifiers that allowed for the articulation of claims of self-determination and demands for accountability in that context. For UN onlookers, a monotone narration using universalised and outdated representations has become the institutional norm.

3 How International Legal Language Distorts the Reality of War

Addressing the international community, Al-Sārūt chants: 'Your protocols are killing us, oh world how you forget us'.[33] The international community's forgetfulness of Homs is anything but surprising. It is as if such forgetfulness was written into the language of international law itself. This section proposes a perspective from which to investigate the normalisation of such forgetfulness.

International law is a language. The notion of language is understood in a broad sense as a system of signs, which connects reality to representations.[34] Languages bridge human communication — for example, cultures or religions can be studied as languages, wherein people who are exposed to these traditions share a complex system of signs which facilitates communication. For instance, in many cultures, holding up two fingers in a 'V' shape signifies victory. The act of holding up the fingers in a 'V' shape is reality, and the representation is the added human meaning signifying victory. Over time, in some contexts, the 'V' sign evolved to signify peace as well as or rather than victory, again reinforcing the point about the construction of meaning.

Law students are taught the language of international law. For example, they are taught to infer a legal status from an empirical situation — a man wearing military clothing and using a weapon in the context of war is identified as a 'combatant'. These inferences are built upon theoretical assumptions about permissible violence, which in

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[32] Arabic Interview with al-Sārūt,translated by the author (29 January 2014) ليست المحاصرة حمص الساروت الباسط عبد - فقط المحاصرون يقرره ومصيرها سياسيه ألعوبة YouTube (accessed 23 January 2023).

[33] Al-Sārūt, 'I long for freedom' (17 August 2013) حانن للحرية حانن بحمص الخالدية حي روائع أجمل من - YouTube (accessed 23 January 2023).

[34] See Umberto Eco, *Semiotics and the Philosophy of Language* (Indiana University Press 1986). 2.

turn construct the realities of those affected.[35] Civilian life is often portrayed as inherently grievable, innocent, and worthy of protection.[36] Combatants**,** by contrast, are represented as legitimate targets**,** their deaths more readily accepted, and their lives deemed less worthy of mourning. Those who fall outside or in between the binary may be labelled as 'unlawful combatants' or 'terrorists'. Such persons face a more extreme consequence: their humanity is eroded**,** their violence delegitimised**,** and their exclusion from legal protections normalised.[37]

The embedding of meaning into language is both an active and a historical process. The relationship between reality and its representation—what we might call *inference*—is a human construct. The raised 'V' sign only became a symbol of victory through specific cultural and historical contingencies. Viewed this way, lawmaking emerges not as a neutral exercise, but as a cumulative project of meaning-creation, where each legal concept carries the weight of its historical construction and the power relations that shaped it.

By studying international law as a language, we can see how its evolution is shaped by layers of past decisions, doctrines, and assumptions—rather than just by deliberate human choices in the present. [38] Like language itself, legal terms carry embedded histories, meanings, and biases that influence how they are used and understood. Over time, these accumulated codes take on a life of their own, shaping legal reasoning in ways that may no longer be logical outside the remit of international law. This perspective helps us recognise how international law operates partly beyond direct human control: historical events and power structures imprint themselves on legal language, which then perpetuates certain ways of thinking, often invisibly.

It can be said that Western legal thought was codified into the language of international law in the sense described by Article 38 of the Statute of the International Court of Justice as 'the general principles of law recognised by civilised nations'[39] The persistence of the word '*civilised*' in this Article is amusingly symbolic. When it comes to war, the UN Charter and IHL transposed a secularised, state-centric adaptation of

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[35] 'law is said to be a performative language that institutes the order of the world': Larry Cata Backer 'A View on A. J. Greimas's Essay "The Semiotic Analysis of a Legal Discourse: Commercial Laws That Govern Companies and Groups of Companies"' in Jan M Broekman and Larry Catá Backer, *Signs in Law -- a Source Book: The Semiotics of Law in Legal Education III* (Springer, 2015) 129, at 131…

[36] See generally,Vasuki Nesiah, 'Human Shields/Human Crosshairs: Colonial Legacies and Contemporary Wars' (2016) 110 *AJIL unbound* 323; Judith Butler, *Frames of War: When Is Life Grievable?* (Verso, 2016).

[37] Berman (2004);Talal Asad, 'Thinking about Terrorism and Just War' (2010) 23 *Cambridge Review of International Affairs* 3.

[38] Umberto Eco, *A Theory of Semiotics* (Macmillan, 1977) 71-72.

[39] 'Statute of the International Court of Justice' (1945) 33 UNTS 993, art 38; Gerry Simpson, *The Sentimental Life of International Law: Literature, Language, and Longing in World Politics* (OUP, 2021) 190-193; Also, see also Antony Anghie, 'The Evolution of International Law: Colonial and Postcolonial Realities' (2006) 27 *Third world quarterly* 739; Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (CUP, 2004).

the Western Christian tradition of Just War theory into international law.[40] According to this perception—developed in the works of thinkers such as Grotius and Vitoria during the era of European colonisation—war can be just when fought in defence of rights recognised by the '*right authority*'.[41]

International legal language internalises the perceptions of some of those partaking in its creation and reflects common beliefs accepted by the dominant political community at the moment of law-making.[42] Other perceptions—arguing that the struggle against oppression or the need to rebalance justice are important considerations in determining the legitimacy of war—were not coded into the core language of international law.[43] As Simpson wonders: 'It is worth considering whether we think of Syrian air-strikes as a form of self-defense because of an act of imagination of a Dutch diplomat over three and a half centuries ago, or because they essentially or necessarily are acts of self-defense'.[44]

Jurists in the Just War tradition shy away from acknowledging that the desire to exploit or expand power lies at the heart of the initiation and conduct of war. Asymmetry in power, denial or distortion of self-determination, profiteering from the military industry, and indirect intervention—primary features in contemporary warfare—become irrelevant considerations for the assessment and description of warfare. Instead, they have provided a wide set of ambiguous understandings of the notion of 'right' over the centuries that have been instrumentalised to portray war as an image of a just act, which is the opposite of its reality.

From this perspective, claiming that the colonial residues and imperial tendencies that shape contemporary warfare were predominately excluded from the core code of international legal language is not surprising, as early international legal jurists played a central role in justifying the expansion of empire, and in turn, global capitalism.[45] It is worth considering that Henry Dunant, who is accredited with laying the groundwork for the establishment of the International Committee of the Red Cross (ICRC) and the Geneva Conventions was a colonial businessman. In the famous story of his encounter with the battle of Solferino, which is often taught to students in

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[40] See generally, Cian O'Driscoll, *Victory: The Triumph and Tragedy of Just War* (OUP, 2019); Jose Manuel Barreto, 'Cerberus: Rethinking Grotius and the Westphalian System' in Martti Koskenniemi, Walter Rech, and Manuel Jiménez Fonseca (eds.) *International Law and Empire: Historical Explorations* (OUP, 2017) 149.

[41] Nicholas Rengger, *Just War and International Order: The Uncivil Condition in World Politics* (CUP, 2013) xi.

[42] For a discussion of how the perceptions of international law experts shape the choices of theoretical presumptions internalized in international legal language refer to: David Kennedy, *A World of Struggle: How Power, Law, and Expertise Shape Global Political Economy* (Princeton University Press, 2016) 120-133, 154;

[43] Pablo Kalmanovitz, 'Early Modern Sources of the Regular War Tradition' in Seth Lazar and Helen Frowe (eds) *The Oxford Handbook of the Ethics of War* (OUP, 2015) 145,151. Also, see Sohail H Hashmi, *Just Wars, Holy Wars, and Jihads: Christian, Jewish, and Muslim Encounters and Exchanges* (OUP, 2012).

[44] Simpson (2021) 191.

[45] Andrew Fitzmaurice, *Sovereignty, Property and Empire, 1500-2000* (Cambridge University Press, 2014) 9-13.

the first class of IHL, this important detail is often overlooked.[46] When Dunant happened upon the battle, he was on his way to solicit the patronage of Napoleon III for his investments in colonised Algeria, where he was entrusted with securing land grants and facilitating the access of European settlers to local resources. As Nesiah notes, for Dunant, it seems that 'Algeria was a business opportunity and a call to Christianisation, Solferino was a human tragedy calling for compassion and dignity.'[47] His ICRC co-founder, Gustave Moynier, was a similarly enthusiastic supporter of King Leopold's exploitation of the Congo and the treaty of Brussels, which normalised the exploitation of Africa, and occurred around the same time that IHL was conceived.[48] The internalisation of their worldviews, along with others whose interests were vested in colonial projects, into the core code of the international legal language remains flagrantly clear to this day.

In this context, as Mégret puts it, 'IHL was a footnote to colonial business as usual'.[49] Humanitarian language was used as means to distort the reality of brutal wars against the 'Others' of international law. Colonial powers employed a range of argumentative strategies to sustain this distortion, leveraging power over legal authority to embed three intersecting lines of argumentation, among others. First, they argued that colonial violence did not constitute war, but mere management of 'internal disturbances' in regions deemed to lack sovereignty.[50] Thus, colonial wars largely fell outside the remit of the NIAC/IAC (non-international/international armed conflict) binary.[51] This exclusion was possible because the NIAC/IAC binary carries the presumption that asymmetry of power or intensity of hostilities are irrelevant considerations for determining the legality of warfare. Secondly, colonial powers argued that combatants or resilient communities in anti-colonial resistance were criminals or terrorists, not lawful belligerents or civilians.[52] This denied them the means to claim protected status if they contested colonial exploitation and excluded considerations of self-determination from the legal assessment of warfare. Thirdly, building on the theoretical presumption of the public/private binary, Western powers inferred 'colonial exploitation' to mean 'business as usual', 'private property', and a

[46] See, for example, Jean Pictet, *Development and Principles of International Humanitarian Law: Course Given in July 1982 at the University of Strasbourg as Part of the Courses Organized by the International Institute of Human Rights* (M Nijhoff, 1985).

[47] Nesiah (2016) 324.

[48] Ibid.

[49] Mégret (2006) 4.

[50] Frédéric Mégret, 'War and the Vanishing Battlefield' (2011) 9 *Chicago International Law Review* 131; Also, see Susan Pedersen, *The Guardians: The League of Nations and the Crisis of Empire* (OUP, 2015).

[51] See, for example, Abi-Saab's discussion of the drafting process of the first protocol of the Geneva Conventions, which illustrates the argumentative strategies used by western states to reject the recognition of wars of national liberation as IACs in Abi-Saab (1981).

[52] Frédéric Mégret, 'Helping the Syrians Help Themselves? The Ambiguities of International Assistance to the Rebellion' (2014) 3:1 *International Journal of Security and Development* 10.

'good investment'.[53] In the present, this divide is used to exclude the 'defence industry'—which advances sophisticated technologies meant to ensure domination and inflate the risk of mass-casualties—from the legal assessment of warfare. Therefore, these three indeterminate binaries—NIAC/IAC, civilian/combatant, public/private—internalised the distortion of questions about asymmetry of power, self-determination, proxy wars, the marketisation of warfare or 'the military-industrial-technological-complex'.

Further, the exclusion of the right to self-determination from legal descriptions of war reflects the fragmentation of international law.[54] IHL is often interpreted in isolation from foundational instruments like the UN Declaration on Friendly Relations and the Declaration on the Granting of Independence to Colonial Countries and Peoples—both of which recognise colonial legacies and imperial ambitions as threats to international peace and security.[55]

The limits of international legal language not only constrain its own scope but also shape the imaginative boundaries of those who engage with it.[56] Language can shape, in part, our perception of reality.[57] Within this framework, the argumentative techniques used to exclude colonial violence from the language of international law succeeded despite their overtly violent logic. In his canonical work *Law and The Algerian Revolution*, Mohammed Bedjaoui exposes how French colonial forces deployed such techniques to justify the unfathomable brutality inflicted on Algerian bodies.[58] A parallel pattern emerges in the British colonisation of Kenya, where the government used the language of international law in the vigorous defence of its use of concentration camps, torture, and starvation as tools of warfare—all to crush the Mau Mau's struggle for liberation.[59] This pattern of exclusion carries colonial residues and imperial aspirations which have persisted under neocolonialism, albeit in a different form. The boundaries of exclusion were expanded under the terrorism and unilateral action frameworks which were shaped by the dominating political authorities.

In the context of proxy wars, intervening third parties are often shielded from scrutiny. Such third parties are often economically advanced states with vested interests in the conflict (for example, Russia, Turkey and the US in Syria). In this context, the

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[53] See generally, James Thuo Gathii, *War, Commerce, and International Law* (OUP, 2010).

[54] Martti Koskenniemi and Päivi Leino, 'Fragmentation of International Law? Postmodern Anxieties' (2002) 15 *Leiden Journal of International Law* 553.

[55] *Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations*, GA Res.2625, UN Doc. A/RES/2625(XXV) (1970).

[56] 'the limits of my language are the limits of my world': Ludwig Wittgenstein, *Tractatus Logico-Philosophicus* (Routledge, 2014). Para. 5.6.

[57] 'there is no access to reality except through our interpretative lens': John Haskell, 'From Apology to Utopia's Conditions of Possibility' (2016) 29 Leiden journal of international law 667. 676, 670.

[58] Mohammed Bedjaoui, *Law and the Algerian Revolution* (International Association of Democratic Lawyers 1961). Chapter Ten.

[59] Fabian Klose, *Human Rights in the Shadow of Colonial Violence: The Wars of Independence in Kenya and Algeria* (University of Pennsylvania Press, 2013).

endurance of the NIAC/IAC distinction is illogical to say the least.[60] High thresholds of responsibility are imposed under the banner of 'internationalised wars' for any war that falls outside the traditional remit of the NIAC/IAC paradigm.[61] As such, states with the leverage to protect civilians (such as Russia in Syria, the United Arab Emirates in Sudan, and the US in Haiti, the Democratic Republic of the Congo (DRC), and Palestine (among others)) are treated as mere third parties to the conflict. This dislocation renders international legal language an ineffective medium for communicating solutions for the protection of affected populations.

Creating law invariably requires making reductionist claims about complex social phenomena. This means that there will always be something missing when we describe reality using the language of international law.[62] In other words, our perception of reality through the medium of international law is bound to be reductive.[63] The boundaries of such reduction are shaped by present and historical dominant political authorities and theoretical presumptions. The precedents of Algeria and Kenya, each with over a million victims, remain strikingly absent from mainstream international legal discourse as a source of 'lessons learned'. Their erasure reveals how the limitations of language dictate the limits of collective perception among believers of international law—distorting the reality of colonial and neocolonial violence, even when the consequences are catastrophic.

The relationship between reality and representation is linked by an inference. At times, the link between the reality and the representation could be based on a false premise. In semiotic terms this is an *inferential incoherence* (or, as Barthes put it, *an inferential inflexion*): where the link between representation and reality is established on a basis that might involve false premises, erroneous conclusions, fallacious arguments, and faulty logic.[64]

The exclusion of the means to articulate colonial residues and imperial aspirations in international legal language rests on logical fallacies. On one level, this exclusion extends from Just War theory. This theory rests on the inference of 'war' as 'justice', a fallacy where the notion of justice changes meaning according to the rule of

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60 'The "distinction" between international wars and internal conflicts is no longer factually tenable or compatible with the thrust of humanitarian law' W. Michael Reisman and James Silk, 'Which Law Applies to the Afghan Conflict?' (1988) 82:3 *American Journal of International Law* 459, at 465; .; Also, see James G Stewart, 'Towards a Single Definition of Armed Conflict in International Humanitarian Law: A Critique of Internationalized Armed Conflict' (2003) 85 *Revue Internationale de la Croix-Rouge/International Review of the Red Cross* 313; and Dietrich Schindler, 'International Humanitarian Law and Internationalized Internal Armed Conflicts' (1982) 22 *International Review of the Red Cross* 255, 257. .

61 Kubo Macak, *Internationalized Armed Conflicts in International Law* (OUP, 2018).

62 'Languages create worlds and do not reflect them'; 'All legal argument is reductionist' Sir Robert Jennings, quoted by Martti Koskenniemi, 'Letter to the Editors of the Symposium' (1999) 93 *The American Journal of International Law* 351, 357, 359.

63 Martti Koskenniemi, 'What Is Critical Research in International Law? Celebrating Structuralism' (2016) 29 *Leiden journal of international law* 727. 729, 733; See also Akbar Rasulov, 'International Law and the Poststructuralist Challenge' (2006) 19 *Leiden Journal of International Law* 799. 810.

64 Paul Kockelman, *Agent, Person, Subject, Self: A Theory of Ontology, Interaction, and Infrastructure* (Oxford University Press 2013). 142; Umberto Eco, 'Peirce's Notion of Interpretant' (1976) 91 *Comparative Literature* 1457, at 1459.

the dominant political authority claiming 'defence'.[65] On another level, as demonstrated by critical scholars of TWAIL and Law and Political Economy, international legal language carries the embedded inferences equating 'humanity' with 'civilisation' [66] and 'civilisation' with 'racial capitalism'. [67] Colonial exploitation is justified with self-referential legal constructs—where colonial violence is justified by the very legal system that colonialism created. International law, while claiming universality and equality, incorporated and embedded racial capitalism and imperial hierarchies into its logic, making the expansion of war against precarious populations seem legally and morally permissible.

Such distortions are exacerbated by the outdated nature of IHL, under which legal rules that were created for a historical imagination of war are applied to a contemporary context.[68] The most prominent rules governing war are the Geneva Conventions of 1949, which were created when war economies looked radically different. In the words of Abi Saab: 'international law cannot afford to ignore for too long generalised and recurrent social phenomena'.[69] In the 1970s, global south representatives sought to challenge the outdated nature of IHL, spearheading the Additional Protocols. Though successful, their contributions remain marginal to contemporary practice. In this regard, Mantilla argues that the current structure of rules governing NIACs has been shaped by the historical reluctance of economically advanced states to regulate internal conflict, whereby 'they would accept formal legal change but would ensure, through subtle textual moves, that the negotiated rules would be created in such a way that they would have a hard time being applied in practice'.[70] Meanwhile, recommendations by the ICRC to rethink the NIAC/IAC distinction to respond to challenges of proxy warfare were repeatedly rejected.[71]

To speak of the siege of Homs in the language of international law is to convey a distorted reality. This language rests on theoretical presumptions that facilitated colonial exploitation and imperial ambitions while maintaining a liberal claim to moral superiority. These theoretical presumptions are engraved into the very code of international law—and they shape how reality is perceived through this medium.

The logic and dynamics of contemporary wars are not far removed from colonial wars. Colonial residues and imperial aspirations, central to contemporary warfare, manifest in indirect involvement, the privatised military market—and its

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[65] Rengger (2013) 8.

[66] Martti Koskenniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870–1960* (CUP, 2001).

[67] Ntina Tzouvala, *Capitalism As Civilisation: A History of International Law* (CUP, 2020).

[68] Berman (2004); Also, see Chris af Jochnick and Roger Normand, 'The Legitimation of Violence: A Critical History of the Laws of War' (1994) 35 Harvard International Law Journal 49.

[69] Abi-Saab (1981) 365.

[70] Giovanni Mantilla, *Lawmaking under Pressure: International Humanitarian Law and Internal Armed Conflict* (Cornell University Press 2020). 7, 8.

[71] Stewart (2003); and Schindler (1982).

accompanying technologies—as well as the denial or distortion of self-determination. The exclusion of these elements from legal consideration is not a demand of justice but a choice embedded in the language of international law. As the case of Syria demonstrates, this distortion of reality shapes the liberal international community's engagement with war in a way that perpetuates its proliferation.

4 How Distorted Perceptions Normalise Brutality

Desensitisation is the normalisation of collective human suffering as a routine or inevitable phenomenon—one that may elicit sympathy for victims (prompting humanitarian responses) but elides the empathy required to foster genuine solidarity and collective action to end systemic violence. This section sets out the claim that desensitisation to the reality of contemporary war is fostered in part by distorted perceptions in the language of international law that carry forward colonial residues and imperial aspirations. I identify some tendencies that complement and sustain such distorted perceptions in a manner that normalises desensitisation, including solipsism, disassociation from the other, and hyper-rationalism.

First, it is difficult to imagine what you have never seen — and it is easier to accept suffering that will never affect you. Solipsistic tendencies are understood here as the urge to analyse the world with reference to one's own individual lived experiences.[72] This understanding differs from solipsism as an ontological position that 'there is only one thing in the world, namely oneself'.[73] From the perspective of Wittgenstein, solipsistic tendencies can shape the limitations of our perceptions.[74] The perceptions of those engaging with the discourse of making and applying international law are bound to be subjective, and such subjectivism is built, in part, on their individual lived experiences. The colossal tragedies of war, especially as lived by the most precarious among us, are not often part of the direct lived experience of liberals in the global North who base their judgement of the situation with reference to international law. This distance in experience creates a fantasy where the graphic, the bloody, the cold, and the burning become blurred and abstracted.

The complex interrelations of self-determination struggles, asymmetric power, privatisation, and indirect involvement of proxy warmongers are typically not directly perceptible in individual lived experience. As a result, when attempting to theorise them, we risk reducing collective dynamics to individualist frameworks, projecting interpersonal relations onto larger structural forces. This tendency becomes particularly fraught in contexts like war, where individualist theoretical assumptions

[72] See, Sami Pihlström, *Why Solipsism Matters* (Bloomsbury, 2020) 109; Saul Traiger, 'Solipsism, Individualism and Cognitive Science', (1991) 3:3 *Journal of Experimental & Theoritcal Artificial Intelligence* 163; and Jerry A Fodor, 'Methodological Solipsism Considered as a Research Strategy in Cognitive Psychology' (1980) 3 *The Behavioural and Brain Sciences* 63.

[73] Ibid.

[74] Jaakko Hintikka, 'On Wittgenstein's 'Solipsism'' (1958) 67 *Mind* 88.

obscure the deeper complexities of actor positionality and contextual forces. What remains visible—and thus prioritised—is often a humanitarian rhetoric that highlights immediate physical harm and urgent needs, while rendering systemic violence invisible.[75]

Conceptualising a complex context like the siege of Homs requires a stretch of the imagination—one that includes a nuanced understanding of collective actors and their relations.[76] Positioning these actors according to their power, capacity, and leverage vis-à-vis the vulnerable population allows us to grasp the dynamics of denied self-determination: the asymmetry of power perpetuated by imperial aspirations in Syria, pursued by both Russia and the US, among other states—whose indirect involvement in the war exacerbated the violence—and the expanding capacity for destruction and domination enabled by the marketisation of the military industry. Only with these considerations in mind can jurists accurately articulate the reality of the siege and the appropriate remedies without being desensitised to the violence inflicted on ordinary Syrians.

Second, a common grievance against international law has been observable patterns of structural 'Othering' towards some of those who are already precarious.[77] Such patterns can be in part the result of dissociative tendencies internalised into its language.[78] In *Frames of War*, Butler demonstrates the correlation between disassociation and grievability. They note that disassociation from a given group of people on the premise of difference unconsciously results in the depreciation of the grievability of their lives.[79] The forefathers of the Just War tradition—including Cicero, Augustine, and Vitoria—condemned the enemy for their difference, and the difference itself becomes a symbol of what is threatening.[80] In contemporary times, the question of who the enemy is and whose territories deserve this violence is globalised, televised and exploited.[81] In particular, Islamic symbols have been connected, in bad faith, to irrational violence in a larger liberal narrative of the clash of civilisations. In this sense, in the system of international law, the lives of some communities are given higher value

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[75] See David Kennedy, *The Dark Sides of Virtue: Reassessing International Humanitarianism* (Princeton University Press, 2004) 130; and Zinaida Miller, 'Effects of Invisibility: In Search of the "Economic" in Transitional Justice' (2008) 2 *The International Journal of Transitional Justice* 266, at 281.

[76] The widening of one's perception requires opening our imagination to the interdependencies shaping precariousness. See Butler's use of Klein's term 'phantasy' put forth in Judith Butler, *The Force of Nonviolence: An Ethico-Political Bind* (Verso, 2021) 59-61.

[77] See generally, contributions in Anne Orford (ed), *International Law and its Others* (CUP, 2006).

[78] Vasuki Nesiah, 'Human Shields/Human Crosshairs: Colonial Legacies and Contemporary Wars' (2016) 110 *AJIL Unbound* 323, at 325.

[79] Butler (2016) 29, 31, 53.

[80] Umberto Eco, *Inventing the Enemy and Other Occasional Writings* (Houghton Mifflin Harcourt, 2012); Also, see Frédéric Mégret, '"War"? Legal Semantics and the Move to Violence' (2002) 13 *European Journal of International Law* 361, 366.

[81] 'The new world order will be both consensual and televisual': Jean Baudrillard, *The Gulf War Did Not Take Place* (Indiana, 1995) 85.

than others.[82] Such dissociative tendencies were made clear with the invasion of Ukraine, where the association with the Ukrainian citizen as white, European, Christian prompted higher grievability for lives lost and greater urgency to protect lives in danger when compared to those in similar situations in Syria, Palestine, DRC, Haiti, and Sudan, among others.[83]

Most contemporary armed conflict happens in the global South,[84] predominantly in the form of NIACs.[85] Political reluctance to reshape international law governing NIACs, or to drop the NIAC/IAC distinction, or to regulate NIACs in a manner responsive to the changes in contemporary war economies, is easier to tolerate in Western sites of power if such events only affect the 'Other'.[86] If those in the international community identify differences between themselves and the community stuck under siege in Homs, then such dissociative tendencies may ease acceptance of a security-driven reading of events facilitated by the language of counterinsurgency,[87] where state-centric presumptions prevail.[88] The combination of solipsistic and dissociative tendencies can facilitate the survival of outdated legal frameworks which distort representations of contemporary warfare.

Scholars such as Linarelli, Salomon and Sornarajah affirm that such desensitisation to suffering is most prevalent in relation to realities of the 'Other', realities which are shaped by structural and relational elements, and realities shaped by economic and private power.[89] Their work suggests that the representation of these realities in international law is distorted by the prevalence of theoretical presumptions such as the public-private divide, and methodological individualism.[90]

Third, law is the epitome of hyper-rationalism. In *The Birth of Tragedy*, Nietzsche places rationality and individuality in opposition to chaos, passion and emotion.[91] Emotion in the sense expressed by Nietzsche, and all things expressed without language, are often given little value in the dominant representations of international

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[82] Ratna Kapur, 'Precarious Desires and Ungrievable Lives: Human Rights and Postcolonial Critiques of Legal Justice' (2015) 3 *London Review of International Law* 267.

[83] Yasin Al Swieha 'Ukraine through Syrian Eyes' [Arabic] (1 March 2022) https://aljumhuriya.net/ar/2022/03/01/%d8%a3%d9%88%d9%83%d8%b1%d8%a7%d9%86%d9%8a%d8%a7-%d8%a8%d8%b9%d9%8a%d9%88%d9%86-%d8%b3%d9%88%d8%b1%d9%8a%d9%91%d8%a9/ (accessed 24 January 2023).

[84] See Håvard Strand and Håvard Hegre, 'Trends in Armed Conflict, 1946–2020' (Peace Research Institute Oslo) <https://www.prio.org/publications/12756> (laccessed 25 January 2023).

[85] Schindler (1982).

[86] See Giovanni Mantilla, *Lawmaking under Pressure: International Humanitarian Law and Internal Armed Conflict* (Cornell, 2020) 7, 8.

[87] For discussion of the transplant of the 'othering' rhetoric into the war on terror, see Frédéric Mégret (2006) 289-292.

[88] See Michael Walzer, *Arguing about War* (Yale, 2004) 51-66.

[89] See Linarelli, Salomon and Sornarajah (2018) 38-77.

[90] Ibid.

[91] Friedrich Wilhelm Nietzsche, *The Birth of Tragedy* (OUP, 2000).

law. Thus, the intense emotion invoked in *The Return to Homs* documentary is toned down when processed through the language of international law.

Conjoining these three tendencies provides a picture of how desensitisation to reality in international legal language seems almost intuitive to the practitioners of international law and, as such, is engraved in the code of international law. Such tendencies facilitate the normalisation and sustenance of distorted perceptions. This intuitiveness renders theoretical contestation a challenging task because the code of international law struggles to process input in any other way.

The road from Homs to the UN Office in Geneva runs through a 'civilising process'. In a hypothetical scenario where al-Sārūt were to address the international community, he would first need to obtain a Schengen visa, learn English and, most crucially, master the art of appealing to a liberal audience on their own terms. Otherwise, he would risk being dismissed as just another 'angry Arab man' in need of civilising — a geopolitical anomaly of political Islam. Guilty by virtue of his beard and references to Allah.

The international community feels no obligation to bridge this gap or recognise the structural forces that shape his harsh reality. You either speak like us, or you are relegated to a subject of sympathy — pitied as a victim or feared as a violent 'Other'. Desensitation further isolates affected populations and nurtures an environment rife for the proliferation of violence. Despite the overtly illogical theoretical presumptions underlying the international community's discourse on war—solipsism, dissociative tendencies, and hyper-rationalism—these frameworks sustain a desensitised and distorted image of precarious lives under the constant risk of bombardment.

5 How to Challenge Desensitisation to Brutality

With time, the brutal reality inevitably surfaces — only to be relegated to a historical footnote. The brutality of the siege of Homs, which ended in 2014, is now featured in documentaries, galleries and talks. As in the case of other atrocities, the brutality is represented in its entirety only when it is too late. In the words of El Akkad, commenting on the genocide in Gaza in 2024: 'One day, when it's safe, when there's no personal downside to calling a thing what it is, when it's too late to hold anyone accountable, everyone will have always been against this'.[92] Thus far, I have argued that international law plays a role in this distortion and desensitisation of the brutal reality of contemporary warfare. The question then is: *How do we identify the relevant brutal reality when law itself obscures it?*

To articulate the relevant brutal reality, we must first confront some of the long-standing perceptual limitations in international legal language shaped by colonial residues and imperial aspirations. When speaking of contemporary wars, the affected subject is she who is has been historically 'Othered'. The compass of our assessment

[92] Omar El Akkad, *One Day, Everyone Will Have Always Been Against This* (Random House, 2025).

must be grounded in a study of the interrelations that shape precarity and proliferate war.

As demonstrated above, the distance between the brutality of reality and the language of international law was a prominent feature of colonisation. This need for a perceptual shift in international law was sharply articulated by global South scholars in the 1950s and 60s, who noted that decolonisation necessitated recoding the core of international legal language. In his dissenting opinion to the *Anglo-Iranian Oil Case*, Judge Alvarez captured the need for recentring the reality of the colonised subject in international legal language, noting that 'justice must not be based not on subtleties but upon realities'.[93] He argued for an imaginative leap by advocating for a shift away from the individualist and static regime of classic international law to a dynamic new international law regime of interdependence.[94] He claimed that acknowledging international interdependence is a condition of social justice.[95] In the same spirit, his commentary on the *Reparations Case* celebrated that the decision was responsive to the reality of international life.[96]

Similarly, Judge Ammoun stressed international law's need to reflect on the changes in social reality, stating in his separate opinion in the *Barcelona Traction Case*:

> Thus it is in the interests of justice and of law that these problems [prompted by the political change of decolonisation] should be approached with a clear vision of the meaning of history and an overall picture of a world from which no-one should henceforth be excluded, no matter how late he has come on the scene.[97]

Indeed, Ammoun and Alvarez were also referring to illogical theoretical premises of argumentation that sustained the distance from reality. This line of thought is reflected in the works of scholars such as Walter Rodney, who sought to ground the discussion in a sober reflection of the brutal reality of exploitative relations. Rodney stressed that such reflection must come before reckoning with abstract terms. In a speech on Marxism and African Liberation, he noted:

> One of the real bases of Marxist thought is that it starts from a perspective of man's relationship to the material world; and that Marxism, when it arose historically, consciously dissociated itself from and pitted itself against all other modes of

[93] *Anglo-Iranian Oil Co. (United Kingdom v. Iran)*, *Preliminary Objections*, Dissenting Opinion of Judge Alvarez, 22 July 1952, 127, https://www.icj-cij.org/sites/default/files/case-related/16/016-19520722-JUD-01-02-EN.pdf (accessed 16 September 2025) (*Anglo-Iranian Oil Case*).

[94] *Anglo-Iranian Oil Case* (1952) at 124-125.

[95] Ibid.

[96] *Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion,* Individual Opinion by Judge Alvarez, 11 April 1949,190-192, https://www.icj-cij.org/sites/default/files/case-related/4/004-19490411-ADV-01-01-EN.pdf (accessed 16 September 2025).

[97] *Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)*, Separate Opinion of Judge Ammoun, (1970) ICJ Rep 1 at289.

> perception which started with ideas, with concepts and with words; and rooted itself in the material conditions and in the social relations in society.[98]

Here, we centre the lived experience of precarious existence in our analysis by examining the interdependent relations that shape such realities. Butler defines precarity as: 'a politically induced condition in which certain populations suffer from failing social and economic networks of support and become differentially exposed to injury, violence, and death'.[99] Similarly, Stauffer describes this positionality as ethical loneliness:

> the experience of being abandoned by humanity, compounded by the cruelty of wrongs not being heard. It is the result of multiple lapses on the part of human beings and political institutions that, in failing to listen well to survivors, deny them redress by negating their testimony and thwarting their claims for justice.[100]

The people of Homs lived under an authoritarian postcolonial regime that had already committed multiple massacres. Their present was defined by poverty, war, and imperial ambitions in the region as their voices and testimonies were systematically erased.

In this context, we must ask: Who are the actors involved, and what privileges and capacities do they hold? These questions extend Iris Marion Young's social connections model, which seeks to delineate responsibility for structural injustice.[101] As international lawyers, we can build on concepts from formative resolutions in the 1960s and 1970s such as the *UN Declaration on the Granting of Independence to Colonial Countries and People* (1960),[102] the *Declaration on the Principles of Friendly Relations* (1970),[103] and the *Declaration on the Establishment of a New International Economic Order* (1974) to articulate such structural considerations.[104]

These declarations, coming from the UN General Assembly that represents the most democratic space of international law making, have customary value as

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[98] Walter Rodney 'Marxism and African Liberation' (Speech at Queen's College, New York, 1975).

[99] Butler (2021) 59-61.

[100] Jill Stauffer, *Ethical Loneliness: The Injustice of Not Being Heard* (2015). Jill Stauffer, *Ethnical Loneliness: The Injustice of Not Being Heard* (CUP, 2015*)* 1.

[101] See Maeve McKeown, 'Iris Marion Young's "Social Connection Model" of Responsibility: Clarifying the Meaning of Connection' (2018) 49 *Journal of Social Philosophy* 484, 495.

[102] *Declaration on the Granting of Independence to Colonial Countries and Peoples*, UNGA Res 1514 (XV), 14 December 1960) (Declaration on Independence).

[103] *Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations*, GA Res.2625, UN Doc. A/RES/2625(XXV),24 October 1970) (Declaration on the Principles of Friendly Relations).

[104] *Declaration on the Establishment of a New International Economic Order*, GA Res.3201, UN Doc. A/RES/3201, 1 May1974) (Declaration on New International Economic Order).

sources of international law.[105] The importance of this development must not be underestimated, as it is representative of the position of states and peoples whose legal positions were disregarded for the majority of international legal history.[106]

To accurately convey the reality of the siege of Homs, we must first recognise its neocolonial context — where the promised reparation for colonisation, technology transfers, and regulation of transnational corporations never materialised. As outlined in the *Declaration on the New International Economic Order*, these developmental elements are essential for dismantling colonial legacies and the premises of equitable prosperity.[107] Our analysis must further confront the privileges and leverage wielded by intervening states pursuing imperial ambitions in the region. In this regard, all three foundational documents emphatically reaffirm non-intervention as a cornerstone principle for maintaining global peace and security.[108] Finally, as articulated through al-Sārūt's songs, the Syrian people's struggle demands a nuanced understanding of self-determination — a central notion to all three documents.[109]

These documents do not provide a solution, but a set of conceptual tools that can enable us to rethink the central coding of international law that desensitises people to brutality. Using and expanding on such global South-led frameworks posits the potential of anchoring our perception of the brutal reality of struggle and war in a manner that may open the path towards a future where siege, genocide, and starvation are no longer normalised.

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[105] In their joint concurring declaration in the *Chagos* case, Judges Cançado Trindade and Robison stressed the normative value of both the *Declaration on the Principles of Friendly Relations* and the *Declaration on Independence* which confer this legitimacy, emphasizing that they 'demonstrate the continuing development of the *opinion juris communis* in customary international law': *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, *Advisory Opinion*, Joint Declaration of Judges Cançado Trindade and Robinson (2019) ICJ Reports 95, at 260 (Chagos Opinion).

[106] *Chagos Opinion* (2019) at 258, para. 2. see also, VON BERNSTROFF Von Bernstroff Jochen and Dann Philipp, *The Battle for International Law: South-North Perspectives on the Decolonization Era* (Oxford: Oxford University Press, 2019); and Luis Eslava, Michael Fakhri and Vasuki Nesiah, *Bandung, Global History, and International Law: Critical Pasts and Pending Futures* (Cambridge: Cambridge University Press, 2017).

[107] *Chagos Opinion* (2019) paras 1, 2.

[108] See Declaration on the Principles of Friendly Relations, principle c; Declaration on New International Economic Order, para 4(a) ; and Declaration on , preamble.

[109] Declaration on the Principles of Friendly Relations, principle e; Declaration on New International Economic Order, para 4(a); and Declaration on Independence, para. 2.

6 Conclusion

> "Although endowed with reason, man has never been so unreasonable; his destiny is uncertain; his conscience is confused; his vision is clouded and his ethical coordinates are being shed, like dead leaves from the tree of life."
>
> – Judge Mohammad Bedjaoui [110]

Al-Sārūt was killed at the age of 27 by Al-Assad's forces in battle on 8 June 2019.[111] His death echoed throughout the Syrian population, internally and in the diaspora. It symbolised the death of a dream, leading many to wonder whether the revolution was just a Sisyphean exercise.[112] To say that this tragedy is inevitable is a privileged position, a position that the code of international law renders acceptable. On 8 December 2024, the Al-Assad regime fell – only to be replaced by a proxy government that fulfils the fantasies of imperial ambitions in the region. In the words of the Syrian author, Siwar Malla:

> It is painful and tragic, after the heavy price paid by Syrians during the years of Assad's devastating rule, the new authority has unambiguously chosen to rule through humiliation, as if it finds no meaning in governance beyond degrading those subjected to its rule.[113]

As this article has sought to demonstrate, international law did not only fail to provide a remedy — it actively played a role in creating the present situation.

International law is a discipline that is meant to foreground international peace and security. A precondition for this mission is a clear perception of the reality of contemporary war. This reality is shaped by colonial residues and imperial ambition. It is defined by asymmetry, technological advancement, a privatised military market and indirect intervention, among other features. War escalates the precarity of those already living under structural injustice. International legal language exists in a symbiotic relationship with colonialism and imperialism. It facilitates the distortion of the reality of contemporary war. Its illogical claims are sustained by solipsistic, dissociative and hyper-rational tendencies. In effect, the brutality of reality is normalised by international law.

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[110] *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion*, Separate Opinion of Judge Bedjaoui (1996) ICJ Reports, 226, at 268.

[111] Khalid Ashawi, 'Syrian rebel town buries goalie who became 'singer of the revolution' Reuters, 9 June 2019 https://www.reuters.com/article/us-syria-security-rebel-funeral-idUSKCN1TA0IY (accessed 22 January 2023).

[112] Sune Haugbolle, 'Moving Through the Interregnum: Yassin al-Haj Saleh in the Syrian Revolution' (2015) 8 *Middle East Journal of Culture and Communication* 13.

[113] 8 ,*الجمهورية.نت* (' سلطة الإذلال العلني' ,سوار ملا August 2025) <https://aljumhuriya.net/ar/2025/08/08/سلطة-الإذلال-العلني/> accessed 15 August 2025. [Text translated by the author].

Yet, *illogical structures are fragile structures*. International legal language is riddled with contradictions — so deeply ingrained that if it were a person, it would be crippled by insecurity, tormented by the lies it tells about itself and the inconsistencies in its character. These contradictions are international law's soft spots — its vulnerabilities. Invoking these contradictions can pave the path for discursive and politicised international legal practice. A genuine commitment to international peace and security requires a reckoning with the reality of precarity, and interrelations shaping contemporary war dynamics. This conclusion is a lesson engraved in history by past generations struggling for decolonisation and genuine self-determination.

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TWAILR

THIRD WORLD APPROACHES *to* INTERNATIONAL LAW *Review*

Front Cover Image

'There was an academic friend here — where are you?'
by Samir Harb (Instagram: Samir_harbsss)
In memory of Dr Wiesam Essa (1975—2024)
and all the scholars who have been tragically killed in Gaza
by the Israeli war machine.

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