The Law and the Fight Against Arms in Gaza: Investigating a Humanitarian Tragedy

How is it that the highest international courts on the planet are drafting historic arrest warrants while, at the same time, on the other side of the globe, there are uninterrupted airlifts that continue to deliver thousands of tons of direct weapons to the conflict zone?

Yes, it's really the paradox that makes you dizzy.

That's it. On the one hand, we have the almost surgical slowness of the law and on the other the mechanical and logistical brutality of war.

This great gap between the text of the law and the metal of ammunition sums up the current crisis of the world order. International law is not some kind of magical entity that floats above nations. It is a web of political compromises. And at the moment, this net is under maximum tension.

And this is precisely what we will dissect during this new exploration. Today's dossier is entitled "Gaza and the law. Investigation into a humanitarian tragedy". We have frankly gathered a mountain of documents to try to understand this mechanism. We will examine requests from the International Criminal Court, orders from the International Court of Justice. We also have a report by Amnesty International, analyses by the historian Omer Bartov.

There is plenty to do.

Absolutely. We also have some very interesting in-depth investigations, led by Orient 21 and Blast Info. A very specific thesis by Thierry LAMIREAU on armament. And finally, a medical modeling study published in the prestigious journal The Lancet.

So, just before diving into this, it is absolutely necessary that we establish an immediate and non-negotiable rule of the game for this analysis.

Go ahead, I'm listening.

The sources we have on the table today use terms of exceptional legal and historical gravity. We are still talking about genocide, war crimes, complicity.

Very heavy words.

Exactly. And our objective for this session is in no way to rule on the merits, nor to improvise ourselves as judges to validate or refute these accusations. The approach is strictly analytical.

It has to be clear to everyone.

That's it. It is really a question of understanding the arguments put forward by these institutions and researchers, of seeing how they are articulated and of observing how these accusations collide with the political and military reality of our time. We don't take sides.

The approach is crystal clear. It's basically an autopsy of information. And so, to start this autopsy, we are going to look at this famous machinery of international justice.

OK, there we go.

In our documents, we have the statements of the Prosecutor of the International Criminal Court, Karim Khan. He is asking for an arrest warrant to be issued.
But even before we get to that stage, we see that the ICC pre-trial chamber had to issue a whole document to formally reject what they call objections to jurisdiction.

In concrete terms, what does this mean? I mean, why does a court have to spend months proving that it has the right to be a court?

Because unlike an investigating judge in a national court where his authority derives directly from the state, the ICC, she evolves in a system that is entirely based on consent.

What does that mean?

The jurisdiction of the ICC is based on the Rome Statute. It is a treaty that some states have signed and ratified and others have refused to sign.

So the objection of lack of jurisdiction is a very classic legal maneuver. An actor targeted by the Court or even a third country files an appeal to say "you don't have a mandate here, this territory is not under your authority".

Oh yes, so it's as if in the middle of a crime scene, the detective first had to debate for ages with the defense lawyers just to prove that he has the right to look at the clues on the ground?

That's a great analogy, yes! International law works exactly like that.

Okay.

If the Pre-Trial Chamber does not dismantle these objections of lack of jurisdiction with concrete arguments, for example based on the recognition of Palestine by the United Nations General Assembly, any arrest warrant issued thereafter would be just null and void.

So it's far from being a detail?

Not at all. This rejection is the founding act that literally allows the law to enter the battlefield.

I understand the legal theory. But once the prosecutor files his request or the International Court of Justice, the IGC, issues an order, such as the one of May 24, 2024, which requires the halt of certain operations, we come up against the wall of reality. There is no overpowered Interpol to rappel down helicopters and arrest leaders.
So, what is the real strike force of these pieces of paper?

The mistake that many people make is to measure the strength of international law with the same rules as conventional criminal law. The real strength of an ICC mandate is the diplomatic radioactivity it generates.

Diplomatic radioactivity, I like the term.

That's exactly it. From the moment a warrant is issued, the 124 signatory states of the Rome Statute have an absolute legal obligation to arrest the person if he or she sets foot on their territory.

Oh yes, so the space is shrinking?

A lot. The physical and geographical space in which a leader can move is suddenly halved. He can no longer attend certain international summits, he can no longer even transit through certain airports. Even if jurisdiction is

contested by the actors in the conflict, the mandate becomes a real wall of legal bricks for other nations.

Okay, so if we accept that the courts are able to establish their authority, we have to look at the very nature of the accusations that are submitted to them. And then, frankly, we switch from procedure to fright.

That's the word, yes.

The Amnesty International report that we have reviewed uses in black and white the expression "genocide of the Palestinians in Gaza committed by the State of Israel". Isn't that a word that is thrown around lightly? How does an NGO like Amnesty construct such an accusation, from a purely technical point of view? What is the difference between war crimes and genocide, legally?

In international law, the crime of genocide as defined by the 1948 Convention, paradoxically, is also the most difficult to prove.

Why is it so hard to prove?

Because of what jurists call "special fraud".

Wait, what exactly is the special fraud?

Basically, it is not enough to note a massive death toll or apocalyptic destruction. It must be proven that there is a specific intent to destroy, in whole or in part, a national, ethnic, racial or religious group.
Intentionality is at the heart of the concept.

And so, how does Amnesty try to prove this intentionality?

Their argument is based on the combination of two elements. First, they make an exhaustive semantic analysis of public statements.

They take the words of the highest political and military leaders to demonstrate a rhetoric of dehumanization.

Departure, the official speeches.

That's it. And then they superimpose these statements on top of the tactical pattern that we see on the pitch.

Like what as a diagram?

The systematic targeting of vital infrastructure, the destruction of hospitals and the severe restriction of humanitarian aid. It is this combination of words and targeted actions that form their case.

And it is this perceived intentionality that leads to the thesis of the historian Omer Bartov. We have his analysis in our report via an article in Basta Media. And he pushes the reasoning even further.

Yes, on complicity.

Exactly. Bartov claims that countries, especially Western countries, that supply weapons to Israel are complicit in genocidal actions.
But legally speaking, where is the red line of complicity drawn?
I mean, if a state sells just one shipment of assault rifles, it automatically becomes complicit in a potential war crime?

That's a great question. The notion of state complicity is very complex. Providing a single isolated shipment could be described as culpable negligence. But for complicity in the strict sense of international law to be retained, two cumulative criteria must generally be demonstrated.

Which ones?

First, knowledge. The supplying State must know that the weapons are going to be used illicitly. And second, the assistance must be substantial.

Ah, so we're talking about volume.

Absolutely.

Analyses, such as those based on BARTOV, maintain that crossing the red line is not done on a single lost ammunition. This is done on the massive, continuous and institutionalized nature of transfers.

When airlifts deliver 2000-pound bombs every day?

When UN bodies or NGOs publicly document the extent of civilian destruction every day, the argument of ignorance, the famous "we didn't know", becomes, according to these sources, legally untenable.

Which brings us directly from legal theory to pure logistics.
And for me, that's really one of the most fascinating aspects of this exploration. Defining complicity on paper is one thing.
But observing the physical machinery of these supplies is another.

Yes, the investigations of Orient 21 on this are edifying.

Yes, they describe what they call a "spillway of American weapons."
That's the term they use. We are talking about entire fleets of cargo ships, daily air rotations. And yet, we have the impression that the general public has very little perception of the extent of this logistics.

This is where the article introduces the concept of "manufacturing consent".

Yes. How can these two realities coexist? How can we deliver so many weapons without public opinion being inflamed?

The manufacture of consent is a concept that is directly inherited from the work of Noam CHOMSKY and Edward HERRMANN on the political economy of the media.

OK.

Applied to this conflict by Orient 21, this explains how democratic societies, which would normally oppose indirect participation in massive destruction, end up accepting it. Or ignore it altogether.

So it's censorship?

No, precisely, it is a structural filtering. The argument is that the mainstream media frames the debate in a very specific way. It creates a kind of cognitive fog.

But let us give a concrete example to those who are listening to us. How does this mechanism operate on a daily basis, such as in press titles or television news? Are we lying openly?

No, it's much more subtle. Take the use of the passive voice, for example. It's very well documented.

The passive voice, that is?

Well, a headline will say "dozens of people die in explosions in Gaza".

Oh yes?

It gives the impression of a weather event, you know?
Tragic, inevitable, almost a natural disaster.
Causality is completely erased. We don't say who threw the bomb.

Whereas the other way around?

Conversely, the active voice will be used for another camp. Like, Army X hits an urban center. This makes it possible to relegate consequences such as thousands of civilian victims or arms deliveries to collateral damage. Unfortunate, but necessary.

It's crazy. I have the image of a large-scale magic trick, actually. It is as if the illusionist draws the public's eye to the right hand.

Yes.

The hand that waves the concept of self-defense, the super-complex geopolitical debates, history. While the left hand, in the half-light, it parades tens of thousands of tons of explosives and precision ammunition.

We organize a debate. We let the editorialists argue on the sets. But the very scope of the discussion almost completely excludes the logistical reality of deliveries.

This is the essence of CHOMSKY's model. The spectrum of acceptable opinions is vigorously restricted, while allowing for a very lively debate within that spectrum. As a result, arms deliveries become mere technical footnotes instead of being treated for what they are, i.e. active participation in the conflict.

But wait, because this fog does not only hide the arms cargoes. While the world's tension is riveted on the bombing of Gaza, our documents reveal other dynamics. Almost silent parallel dynamics. Blast Info's investigation, for example, details what it calls Israel's other struggle.

The annexation of territories in the West Bank?

There is talk of land confiscation, blocked roads, massive expansions of settlements. All this under the guise of the main war.

This is what I would call the house fire analogy.
It's very striking. Imagine a house on fire. The whole neighborhood, the cameras, the politicians are massed in the street. They are hypnotized by the giant flames that ravage the living room.

The living room is Gaza.

That's it. But while everyone is staring at this blaze, in a very methodical way and in almost total silence, the back of the house, the West Bank, is being dismantled, brick by brick. Local legislation is being amended. The territorial configuration is irreversibly altered.

Because the noise of the fire drowns out the noise of the bulldozers.

Exactly. It is the policy of the geographical fait accompli that operates in the blind spot of international tension.

The image is terrifying. Especially since fire does not only destroy the walls, it leaves traces that can never be cleaned.

And this idea of a toxic sequelae plunges us directly into the work of researcher Thierry LAMIREAU.

Oh yes, his thesis on depleted uranium?

That's it. In his thesis, he speaks of eternal war. And I don't hide the fact that this term really sent shivers down my spine. What does depleted uranium have to do with this table? And why use this vocabulary of eternity?

Depleted uranium is an extremely heavy metal. It is used by several armies around the world to make ammunition that is capable of piercing the thickest armor or destroying banks buried very deeply.

So, purely on the military level, it is very effective?

As LAMIREAU explains, it is located at the moment of impact. The ammunition vaporizes largely under the heat and this creates a fine toxic and weakly radioactive dust. It infiltrates absolutely everywhere. It penetrates the water table, it becomes embedded in agricultural soils and above all, it is inhaled by the local populations. The battlefield is changing. We go from geographical territory to human biology, directly to DNA.

It causes birth defects in newborns and skyrocketing cancer rates decades after the fighting officially ended. That's why LAMIREAU speaks of eternal war. The peace treaty, it stops the tanks, yes, but it doesn't stop cellular contamination. War becomes a transgenerational physiological legacy.

And this macabre projection into the future is totally linked to the last source of our dossier. The medical publication published in The Lancet, the famous British journal.

Absolutely.

They apply a relentless mathematical methodology to calculate the true footprint of a conflict's mortality. And frankly, their findings completely break the way victims are usually counted on the news.

Yes, because the Lancet study introduces the crucial notion of indirect excess mortality. In wartime, public opinion logically focuses on direct deaths, people killed by a shell explosion or the collapse of a building.
What we see on the screen, you know.

That's it.
But the epidemiologists of the Lancet analyze the history of recent urban conflicts and show that indirect deaths almost always massively outweigh direct deaths. They apply ratios based on historical data. We often talk about 3 to 15 indirect deaths for each violent death.

Wait, from 3 to 15? That's a huge multiplier! How do you arrive at such a figure? What are the silent mechanisms behind this mortality?

I'll give you an example. When you destroy a water treatment plant, the drinking water disappears. It is replaced by contaminated water.
Very quickly, cholera and dysentery appeared.

Okay, I see the domino effect.

That's exactly it. When you destroy or deprive hospitals of electricity, the incubators for newborns stop. Dialysis patients die within a few days.

And for common diseases?

A simple infantile respiratory inflection that would be totally benign in peacetime. It becomes deadly because there is no longer a single antibiotic available. Add to that chronic starvation and malnutrition that destroy the immune systems of hundreds of thousands of people. What the Lancet models, in fact, is slow death.

Even after the war?

Exactly. Even if the bombs stopped falling the second we speak, the health collapse would continue to take lives for months or even years.

It's a truly abyssal dive. Let's just take a few seconds to summarize what this vast dossier has revealed to us today.
The overall image is of an incredible density.

Yes, there are a lot of things to digest.

The highest international courts of justice have been seen to engage in a tug-of-war to assert their legal jurisdiction, battling objections of lack of jurisdiction before they can even adjudicate anything.
We have seen how institutions such as Amnesty or the historian Omer Bartov try to qualify acts with the heaviest words of criminal law, from genocide to state complicity, or in any case challenged by the implacable logistics of a spillway of weapons operated by Western countries.
A contradiction that has been made, let's say, socially digestible thanks to the manufacture of media consent. And finally, beyond the sound of bombs, the silent territorial conquests in the West Bank and the invisible nightmare of eternal war have been highlighted. Poisoned groundwater and this indirect excess mortality modelled by The Lancet which condemns future generations.

This synthesis really demonstrates the extent to which modern warfare is a total ecosystem. It is impossible to understand this conflict by simply observing the movements of troops on a map. The legal verbiage of the courts, the steel of supply chains, the linguistics of propaganda, and the biology of human survival. All of these are intrinsically linked. It is one and the same single mechanism.

And this is the reason why diving into these documents is fundamental, to grasp the issues of our time, for anyone who listens to us.
This is not just the study of an isolated tragedy on the other side of the world.

No, clearly not.

It is a monumental stress test for our societies.
It is the architecture of international law, built after the Second World War, that is subjected to a crash test whose pillars are dislocated by violence. It is the universal notion of human rights that is being put to the test in the face of real politics and the arms industry.
And besides, the way in which international courts, the media and public opinion react to this famous crash test today, it will create the moral, legal and military jurisprudence of the entire twenty-first century.
The precedents that are being set now will serve as the yardstick for absolutely all the conflicts of tomorrow.

And that's what brings me to a final thought. We observe this international justice system that is desperately trying to impose itself in the face of logistical chaos.

Yes.

If, I don't know, in ten, twenty or fifty years, historians will look at these documents, if they see that the courts have solemnly issued warrants, but at the same time, the guns have never stopped flowing and that the DNA of the populations has been irreparably altered.

The question of inheritance, yes.

Will future generations see our current system of international law as a veritable shield that has courageously protected humanity? Or will they read these hundreds of pages of court rulings, simply as a beautifully written diary

of our civilization, documenting with exquisite precision our utter powerlessness?

It's a dizzying question.

It is with this vertigo that this analysis ends. Listeners are invited to maintain their critical mind, to refuse ready-made evidence, and of course, to dive into these sources for themselves.