

## PALESTINE

You are known for the case against Ariel Sharon in Belgium?

Could you tell us more about it.

As you recall, Ariel Sharon occupied Beirut in September 1982 and the Israeli army encircled the camps. Sharon ordered Lebanese militias 'to clean the camps,' (this is the exact terminology of his order which we discovered when researching the case, and the known metaphor for ethnic cleansing). The rampage killed between 800 and 3000 civilians over three full days and two nights during while the Israeli army lit the camps to allow the killings to continue. With leading journalists, especially Julie Flint, we also discovered that the Israeli army abducted dozens of Palestinian men after the massacres inside the camps.

The victims we represented won the case on 12 February 2003 before the highest court in Belgium, the Court of Cassation. Israel withdrew its ambassador, in probably the greatest crisis with a European country since 1948. Unfortunately, under US pressure, the law was changed retroactively. The victims had won the case, this was a great victory, and Sharon had been indicted for his crimes, but he was not arrested and jailed as he should have been.

How do you view the recent developments at the ICC, with the Prosecutor seeking arrest warrants for Netanyahu and Gallant for crimes against humanity? And at the ICJ, on the genocide case brought by South Africa?

After the change in the law in Belgium following the Sabra and Shatila case, no major cases succeeded in the West against mass criminals who were not from Africa. Hope rose again when the ICC Prosecutor indicted Netanyahu and Gallant, as well as Deif and Sinwar. We are now waiting for the arrest warrants. This could be one of the most important developments in criminal law since the Sabra and Shatila case. The Israeli Prime Minister is already avoiding trips to Europe in fear of arrest.

In addition, the ICJ, which is presided by our Lebanese colleague Dr Nawaf Salam, held that Israel has committed genocide by starving the Palestinians in Gaza and the just released ICJ advisory opinion on the occupation of the West Bank, where settlers have increased their violence against Palestinians severalfold during the Gaza war.

These are not decisive cases yet, but there will be a significant change in international law if we know how to help accountability take root.

You are probably the first constitutional scholar in the world to argue that Israel is not a democratic state. Why not?

Contrary to received thinking in the Middle East, Israel is supported by the West, and by the US in particular, not because it is a colonial outpost of America. The US does not need it; it has plenty of allies amongst Middle Eastern countries, including Saudi Arabia, Egypt and Morocco. Israel is supported in the West because leading European and American politicians consider that "it is the only democracy in the region." My argument, which is a legal-constitutional argument,

is that Israel is not a democracy, and never was. No government can treat a population like Israel has done and continues to do and be considered a democracy in law. It is quite simple, really.

Soon after the war in Gaza, you advocated a ceasefire and published a roadmap in an article published in Lawfare, a US site. How do you look back at your proposals then?

I wrote the article two weeks after October 7, which included several new (and purposefully provocative) ideas and proposals for a Western audience: inter alia, that the Israeli-Palestine conflict must be seen, prospectively, as a hundred years old “civil war”; that the evident way forward is either a two-state solution, or a one-state binational country; that allowing the war to continue will bring a major regional war from the Golan all the way to Pakistan and Afghanistan; that a ceasefire is the first, absolute sine qua non condition for eventual peace; that Israel should not be allowed to keep killing Palestinians in the West Bank and escalate in South Lebanon; and that Iran should be considered as a key player in any solution or peace conference. All of the above points have remained true. In fact, most of them have been adopted, on paper, by the US president calling for a ceasefire and negotiations ending in two states under UNSCR 2735.

You met Lebanese Prime Minister Negib Miqati to advocate support for UNSCR 2735, passed unanimously in New York on 10 June. Can you tell us more about this initiative?

As soon as I read the draft of UNSCR 2735, I understood that it was a good resolution for Gaza worthy of being imposed on Israel. This was my proposal to Prime Minister Miqati, and I believe he has started acting on it in the international arena. President Biden has just announced his renewed support for a ceasefire under the Resolution.